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Writ.

*State of New Jersey to The Board of Education
of the District of Hoboken and State
(L. S.) Board of Education, Greeting:*

We, being willing, for certain reasons to be certified of a certain order of transfer and dismissal made by the Board of Education of the District of Hoboken on June 29, 1932, transferring and dismissing Angelina Koch Downs from her position as a teacher in the public schools of Hoboken after June 30, 1932, and from an order of the State Board of Education made on April 1, 1933, sustaining said order of transfer and dismissal, do command you, the aforesaid defendants, that the said orders, together with all things touching and concerning the same as fully and entirely as before you they remain, to our Justices of the Supreme Court at Trenton, on the 2nd day of May next, you certify and send, together with this writ, that therein may be done what of right and according to the laws of this State should be done.

Witness Thomas J. Brogan, Esq., Chief Justice of our Supreme Court, at Trenton, this 22nd day of April, 1933.

FRED L. BLOODGOOD, 30
Clerk.

ARTHUR T. VANDERBILT,
Attorney.

This writ is allowed. Let it be sealed.

THOMAS J. BROGAN,
C. J.

Dated April 22nd, 1933. 40

**Reasons of Prosecutrix, Angelina Koch
Downs.**

NEW JERSEY SUPREME COURT.

10	<p style="text-align: center;">ANGELINA KOCH DOWNS, Prosecutrix,</p> <p style="text-align: center;"><i>vs.</i></p> <p style="text-align: center;">THE BOARD OF EDUCATION OF THE DISTRICT OF HOBOKEN and STATE BOARD OF EDUCATION, Defendants.</p>	<p style="font-size: 4em; line-height: 1;">}</p> <p style="text-align: center;">On Certiorari. Reasons.</p>
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20 Prosecutrix assigns the following reasons for setting aside the orders of dismissal brought up by this writ of certiorari:

1. The transfer and dismissal of prosecutrix as a teacher in the Public Schools of the City of Hoboken was in violation of the tenure of office provisions of the New Jersey School Law (P. L. 1909, p. 398; C. S., p. 4763, Sec. 106a).
- 30 2. The transfer and dismissal of prosecutrix was in violation of the terms of her contract and the provisions of the New Jersey School Law.
3. The transfer and dismissal of prosecutrix was erroneous since her position was not abolished, she was employed for a period of three consecutive years, and no charges were ever made or contemplated against her.
- 40 4. The transfer and dismissal of prosecutrix was not made in good faith and was unlawful.

Reasons of Prosecutrix, Angelina Koch Downs.

5. The transfer and dismissal of prosecutrix was the result of unlawful discrimination.

6. The transfer and dismissal of prosecutrix was erroneous, as teachers not protected by the tenure of office act were employed by defendant, The Board of Education of the District of Hoboken, at the time of the dismissal of prosecutrix and thereafter. 10

7. The transfer and dismissal of prosecutrix was erroneous as teachers employed subsequent to the employment of prosecutrix were employed by defendant The Board of Education of the District of Hoboken at the time of the transfer and dismissal of prosecutrix and thereafter. 20

8. The transfer and dismissal of prosecutrix was contrary to law. 20

ARTHUR T. VANDERBILT,
Attorney of Prosecutrix.

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Writ.

*State of New Jersey to Angelina Koch Downs and
State Board of Education, Greeting:*

(L. S.)

10 We, being willing, for certain reasons to be cer-
tified of a certain order of the State Board of
Education made on April 1, 1933, sustaining the
State Commissioner of Education in ordering the
prosecutor to pay said defendant, Angelina Koch
Downs, her salary for the months of July and
August, 1932, and in ordering the prosecutor to
dismiss the non-tenure teachers who were em-
ployed by the prosecutor as of June 30, 1932,
and to replace them with tenure teachers who were
among those whose positions were abolished by
20 the said prosecutor as of June 30, 1932, do com-
mand you, the aforesaid defendants, that the said
orders, together with all things touching and con-
cerning the same as fully and entirely as before
you they remain, to our Justices of the Supreme
Court at Trenton, on the 2nd day of May next,
you certify and send, together with this writ, that
therein may be done what of right and according
to the laws of this State should be done.

30 Witness Thomas J. Brogan, Esq., Chief Justice
of our Supreme Court, at Trenton, this 22nd day
of April, 1933.

FRED L. BLOODGOOD,
Clerk.

JOSEPH GREENBERG,
Attorney.

This writ is allowed. Let it be sealed.

THOMAS J. BROGAN,
C. J.

40

Dated April 22nd, 1933.

**Reasons of Prosecutor, Board of Education of
the District of Hoboken.**

NEW JERSEY SUPREME COURT.

<p style="text-align: center;">BOARD OF EDUCATION OF THE DISTRICT OF HOBOKEN, Prosecutor,</p> <p style="text-align: center;"><i>vs.</i></p> <p style="text-align: center;">ANGELINA KOCH DOWNS and the STATE BOARD OF EDUCATION, Defendants.</p>	}	<p>On Certiorari. Reasons.</p>	<p>10</p>
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Prosecutor assigns the following reasons for setting aside the order of the State Board of Education which provided that all the teachers whose positions were declared legally abolished as of June 30, 1932, shall be paid their salaries for the months of July and August of 1932, and also the order of the State Board of Education in determining that the prosecutor should dismiss all the non-tenure teachers who were employed by it as of June 30, 1932, and replace them with tenure teachers who were among those whose positions were abolished by the said prosecutor as of June 30, 1932:

1. The State Board of Education having determined that the positions of the teachers were legally abolished as of June 30, 1932, it was illegal to order their salaries paid for July and August, 1932.

2. Under Section 230 of the School Laws of 1931—P. L. 1909, Chapter 243, the prosecutor had

*Reasons of Prosecutor, Board of Education of
the District of Hoboken.*

10 a right to reduce its teaching staff when there is a natural diminution of pupils which right the said prosecutor exercised and abolished the position of the defendant, Angelina Koch Downs, as of June 30, 1932, and the defendant was not entitled to any salary for July and August.

3. Any rights that the defendant, Angelina Koch Downs, had by reason of tenure of office were terminated by the exercise of the prosecutor of its rights to reduce its teaching staff under Section 230 of the School Laws of 1931—P. L. 1909, Chapter 243.

20 4. Any rights which the defendant, Angelina Koch Downs, had by reason of any contract with the prosecutor were terminated by the exercise of the prosecutor of its rights to reduce its teaching staff under Section 230 of the School Laws of 1931—P. L. 1909, Chapter 243.

30 5. The prosecutor reduced the numbers of its principals and teachers and abolished their positions in good faith and for the purpose of economy and any rights which the defendant, Angelina Koch Downs, had for salary for July and August were terminated.

6. The abolition of the position of the defendant, Angelina Koch Downs, was legal even though at the time she had come under the provisions of the tenure of office and there were teachers retained who did not have protection of tenure.

40 7. The school years 1931-32 ended on June 30, 1932, and the said defendant, Angelina Koch Downs, was paid in full for the said school year.

*Reasons of Prosecutor, Board of Education of
the District of Hoboken.*

8. The order of the State Board of Education in ordering that all the teachers should be paid their salaries for July and August, 1932, even though it determined that their positions were legally abolished was contrary to law.

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9. The order of the defendant, State Board of Education, in determining that the non-tenure teachers as of June 30, 1932, should be replaced by tenure teachers who were among those whose positions were legally abolished as of June 30, 1932, was contrary to law.

JOSEPH GREENBERG,
Attorney of Prosecutor.

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Writ.

*State of New Jersey to the Board of Education
of the District of Hoboken and State
(L. S.) Board of Education, Greeting:*

10 We, being willing, for certain reasons to be cer-
tified of a certain order of dismissal made by the
Board of Education of the District of Hoboken
on June 29, 1932, dismissing Rai Driesen Flecht-
ner from her position as a teacher in the public
schools of Hoboken after June 30, 1932, and from
an order of the State Board of Education made
on April 1, 1933, sustaining said order of dis-
missal, do command you, the aforesaid defend-
ants, that the said orders, together with all things
touching and concerning the same as fully and
20 entirely as before you they remain, to our Jus-
tices of the Supreme Court at Trenton, on the
2nd day of May next, you certify and send, to-
gether with this writ, that therein may be done
what of right and according to the laws of this
State should be done.

Witness Thomas J. Brogan, Esq., Chief Justice
of our Supreme Court, at Trenton, this 22nd day
of April, 1933.

30 FRED L. BLOODGOOD,
Clerk.
ARTHUR T. VANDERBILT,
Attorney.

This writ is allowed. Let it be sealed.

THOMAS J. BROGAN,
C. J.

Dated April 22nd, 1933.

**Reasons of Prosecutrix, Rai Driesen
Flechtner.**

NEW JERSEY SUPREME COURT.

<p style="text-align: center;">RAI DRIESEN FLECHTNER, Prosecutrix,</p> <p style="text-align: center;"><i>vs.</i></p> <p style="text-align: center;">THE BOARD OF EDUCATION OF THE DISTRICT OF HOBOKEN and STATE BOARD OF EDUCATION, Defendants.</p>	}	<p>On Certiorari. Reasons.</p>	10
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Prosecutrix assigns the following reasons for setting aside the orders of dismissal brought up by this writ of certiorari: 20

1. The dismissal of prosecutrix as a teacher in the Public Schools of the City of Hoboken was in violation of the tenure of office provisions of the New Jersey School Law (P. L. 1909, p. 398; C. S., p. 4763, Sec. 106a).

2. The dismissal of prosecutrix was in violation of the terms of her contract and the provisions of the New Jersey School Law. 30

3. The dismissal of prosecutrix was erroneous since her position was not abolished, she was employed for a period of three consecutive years, and no charges were ever made or contemplated against her.

4. The dismissal of prosecutrix was not made in good faith and was unlawful. 40

Reasons of Prosecutrix, Rai Driesen Flechtner.

5. The dismissal of prosecutrix was the result of unlawful discrimination.

10 6. The dismissal of prosecutrix was erroneous as teachers not protected by the tenure of office act were employed by defendant, The Board of Education of the District of Hoboken, at the time of the dismissal of prosecutrix and thereafter.

7. The dismissal of prosecutrix was erroneous as teachers employed subsequent to the employment of prosecutrix were employed by defendant The Board of Education of the District of Hoboken at the time of the dismissal of prosecutrix and thereafter.

20 8. The dismissal of prosecutrix was contrary to law.

ARTHUR T. VANDERBILT,
Attorney of Prosecutrix.

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Writ.

*State of New Jersey to Rai Driesen Flechtner and
State Board of Education, Greeting:*

(L. S.)

We, being willing, for certain reasons to be certified of a certain order of the State Board of Education made on April 1, 1933, sustaining the State Commissioner of Education in ordering the prosecutor to pay said defendant, Rai Driesen Flechtner, her salary for the months of July and August, 1932, and in ordering the prosecutor to dismiss the non-tenure teachers who were employed by the prosecutor as of June 30, 1932, and to replace them with tenure teachers who were among those whose positions were abolished by the said prosecutor as of June 30, 1932, do command you, the aforesaid defendants, that the said orders, together with all things touching and concerning the same as fully and entirely as before you they remain, to our Justices of the Supreme Court at Trenton, on the 2nd day of May next, you certify and send, together with this writ, that therein may be done what of right and according to the laws of this State should be done.

Witness Thomas J. Brogan, Esq., Chief Justice of our Supreme Court, at Trenton, this 26 day of April, 1933.

FRED L. BLOODGOOD,
Clerk.

JOSEPH GREENBERG,
Attorney.

This writ is allowed. Let it be sealed.

THOMAS J. BROGAN,
C. J. 40

Dated April 26, 1933.

**Reasons of Prosecutor, Board of Education of
the District of Hoboken.**

NEW JERSEY SUPREME COURT.

10	<p style="text-align: center;">BOARD OF EDUCATION OF THE DISTRICT OF HOBOKEN, Prosecutor,</p> <p style="text-align: center;"><i>vs.</i></p> <p style="text-align: center;">RAI DRIESEN FLECHTNER and the STATE BOARD OF EDUCATION, Defendants.</p>	<p style="font-size: 4em; line-height: 1;">}</p> <p>On Certiorari. Reasons.</p>
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20 Prosecutor assigns the following reasons for setting aside the order of the State Board of Education which provided that all the teachers whose positions were declared legally abolished as of June 30, 1932, shall be paid their salaries for the months of July and August of 1932, and also the order of the State Board of Education in determining that the prosecutor should dismiss all the non-tenure teachers who were employed by it as of June 30, 1932, and replace them with tenure teachers who were among those whose positions were abolished by the said prosecutor as of June

30 30, 1932.

1. The State Board of Education having determined that the positions of the teachers were legally abolished as of June 30, 1932, it was illegal to order their salaries paid for July and August, 1932.

40 2. Under Section 230 of the School Laws of 1931—P. L. 1909, Chapter 243, the prosecutor had

*Reasons of Prosecutor, Board of Education of
the District of Hoboken.*

a right to reduce its teaching staff when there is a natural diminution of pupils which right the said prosecutor exercised and abolished the position of the defendant, Rai Driesen Flechtner, as of June 30, 1932, and the defendant was not entitled to any salary for July and August. 10

3. Any rights that the defendant, Rai Driesen Flechtner, had by reason of tenure of office were terminated by the exercise of the prosecutor of its rights to reduce its teaching staff under Section 230 of the School Laws of 1931—P. L. 1909, Chapter 243.

4. Any rights which the defendant, Rai Driesen Flechtner, had by reason of any contract with the prosecutor were terminated by the exercise of the prosecutor of its rights to reduce its teaching staff under Section 230 of the School Laws of 1931—P. L. 1909, Chapter 243. 20

5. The prosecutor reduced the numbers of its principals and teachers and abolished their positions in good faith and for the purpose of economy and any rights which the defendant, Rai Driesen Flechtner, had for salary for July and August were terminated. 30

6. The abolition of the position of the defendant, Rai Driesen Flechtner, was legal even though at the time she had come under the provisions of the tenure of office and there were teachers retained who did not have protection of tenure.

7. The school year 1931-32 ended on June 30, 1932, and the said defendant, Rai Driesen 40

*Reasons of Prosecutor, Board of Education of
the District of Hoboken.*

Flechtner, was paid in full for the said school year.

10 8. The order of the State Board of Education in ordering that all the teachers should be paid their salaries for July and August, 1932, even though it determined that their positions were legally abolished was contrary to law.

9. The order of the defendant, State Board of Education, in determining that the non-tenure teachers as of June 30, 1932, should be replaced by tenure teachers who were among those whose positions were legally abolished as of June 30, 1932, was contrary to law.

20

JOSEPH GREENBERG,
Attorney of Prosecutor.

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Stipulation.

NEW JERSEY SUPREME COURT.

<p>RAI DRIESEN FLECHTNER, Prosecutrix,</p> <p style="text-align: center;"><i>vs.</i></p> <p>THE BOARD OF EDUCATION OF THE DISTRICT OF HOBOKEN and STATE BOARD OF EDUCATION, Defendants.</p>	}	<p>On Certiorari. Stipulation.</p>	<p>10</p>
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Application having been made before the Honorable Thomas J. Brogan, Chief Justice of our Supreme Court for writs of certiorari on behalf of the thirty-three teachers and one principal here involved, and a cross-application having been made on behalf of the defendant, the Board of Education of the District of Hoboken, for thirty-four writs of certiorari in the same connection and the said Honorable Thomas J. Brogan, Chief Justice of the New Jersey Supreme Court having recommended that writs issue in connection with Angelina Koch Downs representing teachers who were transferred and Rai Driesen Flechtner representing teachers who were not transferred and that writs issue on behalf of the Board of Education of the District of Hoboken in connection with Angelina Koch Downs representing teachers who were transferred and Rai Driesen Flechtner representing teachers who were not transferred, and that the parties stipulate with reference to the remainder, it is on this 14th day of August, 1933, stipulated between the parties hereto as follows:

Stipulation.

10 1. The parties hereto agree that the issuance of the writs of certiorari and cross writs of certiorari in connection with Rai Driesen Flechtner and Angelina Koch Downs shall be deemed equivalent to the issuance of similar writs of certiorari and cross writs of certiorari in connection with the remaining thirty-one teachers and one principal here involved.

20 2. The parties hereto agree that the determination on the writ of certiorari and cross writ of certiorari in connection with the case of Rai Driesen Flechtner shall be binding upon, and shall determine the rights of the Board of Education of the District of Hoboken and the remaining six teachers and one principal who had been employed in schools No. 4 or No. 7.

3. The parties hereto agree that the determination on the writ of certiorari and cross writ of certiorari in connection with the case of Angelina Koch Downs shall be binding upon, and shall determine the rights of the Board of Education of the District of Hoboken and the remaining twenty-five teachers who were transferred to schools No. 4 or No. 7.

30 4. The parties hereto agree that in order to shorten the record, it shall be sufficient to print the record of the proceedings before Commissioner of Education and the State Board of Education in connection with the writs and cross writs of certiorari relating to Rai Driesen Flechtner and Angelina Koch Downs. The parties hereto further agree that the pleadings with respect to the seven teachers and one principal who had been employed in schools No. 4 or No. 7 are similar and that the pleadings with respect to the twenty-six teachers
40 who were transferred to schools No. 4 or No. 7 are

Stipulation.

similar. The parties further agree that a copy of the minutes of the meeting of the Board of Education of the District of Hoboken held on June 29, 1932, shall be considered as part of the exhibit before the Commissioner of Education and the State Board of Education and may be used as part of the state of case in these proceedings. 10

5. The parties hereto agree that all of the matters presented to the Commissioner of Education and the State Board of Education in connection with the thirty-three teachers and one principal here involved shall be presented for the Court's determination.

6. The parties hereto further agree that if the Court should for any reason consider it important to be advised as to which teachers were married and which were non-resident and which were married and non-resident, the record presented to the Court may be supplemented at any time to add such information. It is further agreed that in the event the Court is of the opinion that the rights of teachers who were non-resident are in any manner different from those who are married or non-resident and married, the foregoing provision of this stipulation shall be modified to the end that the rights of the respective teachers and the Board of Education of the District of Hoboken shall be fixed and determined in accordance with the opinion of the Court. 20 30

ARTHUR T. VANDERBILT,
Attorney for Prosecutrix, Rai
Driesen Flechtner, *et als.*

JOSEPH GREENBERG,
Attorney for the Board of Educa-
tion of the District of Hoboken. 40

Return to Writ.

NEW JERSEY SUPREME COURT.

10	<p style="text-align: center;">ANGELINA KOCH DOWNS, Prosecutrix, <i>vs.</i> THE BOARD OF EDUCATION OF THE DISTRICT OF HOBOKEN and STATE BOARD OF EDUCATION, Defendants.</p>	}	<p>On Certiorari. Return to Writ.</p>
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20 Pursuant to the command of the within writ and for the return thereto, the State Board of Education does hereby certify to the Justices of the Supreme Court a certain order sustaining an order of transfer and dismissal made by the Board of Education of the District of Hoboken transferring and dismissing Angelina Koch Downs from her position as teacher in the public schools of the City of Hoboken, together with the proceedings before the Commissioner of Education, including petition of appeal, answer, reply, testimony and decision, and the proceedings before the State Board of Education, including notice of appeal, points of appeal and decision of the State Board of Education.

30

CHARLES H. ELLIOTT,
Commissioner of Education and
Secretary of State Board of
Education.

Return to Writ.

NEW JERSEY SUPREME COURT.

RAI DRIESEN FLECHTNER, Prosecutrix, <i>vs.</i> THE BOARD OF EDUCATION OF THE DISTRICT OF HOBOKEN and STATE BOARD OF EDUCATION, Defendants.	}	On Certiorari. Return to Writ.	10
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Pursuant to the command of the within writ and for the return thereto, the State Board of Education does hereby certify to the Justices of the Supreme Court a certain order sustaining an order of dismissal made by the Board of Education of the District of Hoboken dismissing Rai Driesen Flechtner from her position as teacher in the public schools of the City of Hoboken, together with the proceedings before the Commissioner of Education, including petition of appeal, answer, reply, testimony and decision, and the proceedings before the State Board of Education, including notice of appeal, points of appeal and decision of the State Board of Education.

CHARLES H. ELLIOTT,
 Commissioner of Education and
 Secretary of State Board of
 Education.

**Notice of Appeal of Appellant, Angelina
Koch Downs.**

STATE OF NEW JERSEY,
DEPARTMENT OF PUBLIC INSTRUCTION.

10

ANGELINA KOCH DOWNS,
Appellant,

vs.

BOARD OF EDUCATION OF THE CITY
OF HOBOKEN,
Respondent.

} Notice of Appeal.

20

*To Respondent, Board of Education of the City of
Hoboken:*

TAKE NOTICE that appellant, Angelina Koch Downs, hereby appeals to the Commissioner of Education of the State of New Jersey from the resolutions and orders adopted by the Board of Education of the City of Hoboken transferring, dismissing and dispensing with the services of appellant as an employee of the Board of Education of the City of Hoboken.

30

ARTHUR T. VANDERBILT,
Attorney for Appellant.

40

**Petition of Appeal of Appellant, Angelina
Koch Downs.**

STATE OF NEW JERSEY,
DEPARTMENT OF PUBLIC INSTRUCTION.

<p>ANGELINA KOCH DOWNS, Appellant,</p> <p style="text-align: center;"><i>vs.</i></p> <p>BOARD OF EDUCATION OF THE CITY OF HOBOKEN, Respondent.</p>	}	<p>Petition of Appeal.</p>	10
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Angelina Koch Downs (nee Angelina Koch) hereby petitions the Commissioner of Education of the State of New Jersey to review and set aside the resolutions adopted by the Board of Education of the City of Hoboken transferring, dismissing and dispensing with the services of appellant, Angelina Koch Downs (nee Angelina Koch), as an employee of the Board of Education of the City of Hoboken. Appellant sets forth that said resolutions were unlawfully made and says that:

1. In February, 1911, appellant was engaged by respondent, Board of Education of the City of Hoboken, to teach in the public schools of the City of Hoboken, New Jersey, at a salary of \$600.00 a year, and in February, 1911, appellant commenced teaching in Public School No. 9 of the City of Hoboken, to which school appellant has been assigned.

2. Thereafter, and during the school years 1911 to 1931-1932, inclusive, appellant was engaged by respondent as a teacher in the public schools of

*Petition of Appeal of Appellant, Angelina Koch
Downs.*

10 Hoboken. From February, 1911, to June, 1932, inclusive, appellant taught in the Hoboken public schools. During said period appellant received varying yearly amounts as compensation and during the school year 1931-1932 appellant received as compensation the sum of \$2,460.00.

3. Appellant taught Grade 1A during the school year 1932, and said grade during said school year was attended by approximately 35 pupils. Since February, 1911, appellant has at all times taught in Public School No. 9 of the City of Hoboken.

20 4. Appellant is a non-resident of the City of Hoboken, and is married. In April, 1932, James P. Laverty, President of respondent, Board of Education of the City of Hoboken, sent letters to the teachers in the Hoboken public schools who were non-resident or married, or both. Copies of said letters are attached hereto, marked Exhibits A, B, C and D, and are made a part hereof, as though fully set forth. Exhibit A was received by unmarried teachers who had never been residents of the City of Hoboken; Exhibit B was sent to teachers who at one time lived in the City of Hoboken but subsequently became non-residents; Exhibit C was sent to married teachers who were non-residents of Hoboken; and Exhibit D was sent to married teachers living in Hoboken. Under
30 date of June 23, 1932, a further letter was sent to teachers who were non-resident, married or both, a copy of said letter being attached hereto, marked Exhibit E and made a part hereof, as though fully set forth herein.

40 5. On June 29, 1932, a letter dated June 28, 1932, was delivered by hand to appellant, stating

*Petition of Appeal of Appellant, Angelina Koch
Downs.*

that appellant was transferred from Public School No. 9 to Public School No. 4. Similar letters were delivered at the same time to approximately 33 other teachers who were either married, non-resident or both. A copy of said letter is attached hereto, marked Exhibit F, and is made a part hereof, as though fully set forth. Each purported transfer was either to Public School No. 4 or Public School No. 7. At the time of the purported transfers, a similar number of teachers in Public Schools No. 4 and No. 7 received letters to the effect that they had been transferred to the various schools in which the married or non-resident teachers above referred to were teaching. Several teachers who were married or non-resident or both, and who taught in Public Schools No. 4 and No. 7 did not receive any purported transfers.

6. On June 30, 1932, a letter under date of June 29, 1932, was delivered by hand to appellant, advising that the Board of Education of the School District of Hoboken had adopted a resolution closing Public School No. 4, abolishing the position of appellant and dispensing with her services as of June 30, 1932. A copy of said letter is attached hereto, marked Exhibit G and made a part hereof, as though fully set forth herein.

7. There are at present numerous teachers in the public schools of Hoboken who are not protected by the tenure provisions of the New Jersey School Laws and who have been teaching for periods of less than three years. Exclusive of the teachers who are married or non-resident or both, and who received letters to the effect that the Board of Education had dispensed with their ser-

*Petition of Appeal of Appellant, Angelina Koch
Downs.*

vices, there are teachers who are married, non-resident or both at present employed by the respondent, Board of Education of Hoboken.

10 8. There has been no diminution in the number of pupils in Public School No. 9, nor has there been any reduction in the number of teachers assigned to said school.

20 9. Appellant alleges that the action of respondent in transferring appellant to Public School No. 4 and in dismissing appellant and in dispensing with her services was not done in good faith nor for the reasons assigned and is illegal and in violation of the tenure of office provisions of the New Jersey School Laws.

10. Appellant has been engaged as a teacher in excess of three consecutive years. The purported dismissal of appellant was not made because of inefficiency, incapacity, conduct unbecoming a teacher or other just cause, and no charges have ever been made or contemplated against appellant.

30 Appellant therefore prays that an order be issued by the Commissioner of Education of the State of New Jersey, setting aside and declaring invalid the action of the Board of Education of the City of Hoboken in transferring, dismissing and dispensing with the services of appellant as of June 30, 1932, and for such other relief as may be proper.

ARTHUR T. VANDERBILT,
Attorney of Appellant.

*Petition of Appeal of Appellant, Angelina Koch
Downs.*

STATE OF NEW JERSEY, }
COUNTY OF ESSEX, } ss.:

ANGELINA KOCH DOWNS (nee Angelina Koch),
being duly sworn upon her oath according to law,
deposes and says: 10

I am the appellant named in the foregoing peti-
tion. I have read the said petition and the facts
therein contained are true, to the best of my knowl-
edge and belief.

ANGELINA KOCH DOWNS.

Subscribed and sworn to before me }
this 9th day of August, 1932. } 20

EVELYN T. ADAM
A Notary Public of New Jersey

(L. S.)

30

40

**Exhibit A, Annexed to Petition of Appeal of
Appellant, Angelina Koch Downs.**

COPY

BOARD OF EDUCATION

District of Hoboken, N. J.

10

JAMES P. LAVERTY
President

April 12, 1932.

Dear Teacher:

Pertaining to "query card" on which you indicated facts of school life:

20

When an educator with your attainments was in demand here, you and other non-residents aspired for pedagogic recognition. Appointed—you became a servant of the people of Hoboken, but residence has continued elsewhere. Ethically and legally you owe a debt of habitation in the place where your official duty lies. Practically one-third of the pedagogic staff reside beyond the limits of Hoboken—you among the number—who in one year remove out of the city, a wage total of \$389,000.

30

Interpret this letter as a summons for you to employ yourself in the interest of Hoboken—dwell here, perform a civic duty, share local burden, spend money for necessities of life, progress its affairs. Your material help is needed especially in this season of financial stringency.

40

Hoboken officials consistently support the cause of the teacher body, maintain salary schedule and provide the payroll check without the confusion which you know obtains in many school districts. In this time of dire distress a spirit of reciprocal good will should persuade you to abide here, con-

*Exhibit B, Annexed to Petition of Appeal of
Appellant, Angelina Koch Downs.*

tribute to progress of our affairs rather than pursue the policy of resident aloofness which has continued for years.

A pretence of taking up abode in Hoboken will not suffice the purpose. An established genuine home is the objective of the authorities. May retrospection persuade you to pay this city the habitation obligation you owe it. 10

Respectfully yours,

(Sgd.) J. P. LAVERTY.

J. P. LAVERTY,
President, Board of Education.

20

**Exhibit B, Annexed to Petition of Appeal of
Appellant, Angelina Koch Downs.**

COPY

BOARD OF EDUCATION

District of Hoboken, N. J.

JAMES P. LAVERTY
President

30

April 12, 1932.

Dear Teacher:

Pertaining to "query card" on which you indicated facts of school life:

In youth and in adult age you utilized Hoboken's estate to acquire education, also to obtain teacher appointment promotion. Thereafter you domiciled elsewhere.

A local supply of educators was scarce for several years of the post war period. Since 1925 only 40

*Exhibit B, Annexed to Petition of Appeal of
Appellant, Angelina Koch Downs.*

10 Hoboken school graduates received appointment; over ninety per cent of our instructors claim Hoboken origin, a proportion of "home talent" greater than is usually found in an educational circle. Practically one third of the pedagogic staff have resided beyond the limits of Hoboken—you among the number—who in one year remove elsewhere \$389,000, of wage provided by your early life associates, the landlord, tenant, business concern group who pay tax for City, County, State purpose. As a servant of the people you have a civic obligation to dwell here, share local burden and spend money for necessities of life.

20 Consequent to "registration" decrease and class consolidation next September, a teacher "un-assigned" will be relegated to "substitute" service. Hoboken school children have a high efficiency rating. This standard of excellence shall be conserved.

In this time of dire distress your desertion of the city which fostered and progressed your affairs is most censurable. A pretence of taking up abode in Hoboken will not suffice the purpose. An established genuine home is the objective of the authorities concerning you.

30 May retrospection persuade you to pay this city the habitation obligation you owe it.

Respectfully yours,

(Sgd.) J. P. LAVERTY.

J. P. LAVERTY,

President, Board of Education.

**Exhibit C, Annexed to Petition of Appeal of
Appellant, Angelina Koch Downs.**

COPY

BOARD OF EDUCATION

District of Hoboken, N. J.

JAMES P. LAVERTY

President

April 12, 1932.

Dear Teacher:

Pertaining to "query card" on which you indicated facts of school life:

The present variation in ratio of wage and living cost is comparable with the time your devoted Mother entered wedlock, content with the gainful occupation of your worthy Father. In youth under proper parental guidance and the resourcefulness of a faithful school teacher, health, character and education came to you.

You cannot faithfully serve two masters. A family home management makes for fatigue and anxiety. In the classroom the teacher married shows temperamental irritability and proneness to distraction, abandons alert and intensive direction of study projects. Research surveys now in progress concern the relative merit of child education under tutelage of a married and an unmarried woman teacher.

In youth and in adult age you utilized Hoboken's estate to acquire education, also to obtain teacher appointment promotion. Thereafter you domiciled elsewhere. May retrospection persuade you to pay this city the habitation obligation you owe it.

Consequent to "registration" decrease and class consolidation next September, a teacher

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*Exhibit C, Annexed to Petition of Appeal of
Appellant, Angelina Koch Downs.*

“unassigned” will be relegated to “substitute” service. Hoboken school children have attained a study standard of excellence which shall be conserved.

10 A number of years ago there was a shortage of local educators. Since 1925, however, only Hoboken school graduates received appointment. Ninety per cent of the teacher force is “home talent,” a proportion not equaled elsewhere. It is regrettable, but true, that one third of this trained organization reside beyond the limits of Hoboken—you, among the number—who in one year remove elsewhere \$389,000. of wage provided by your early life associates, the landlord, tenant, business concern group of taxpayers. As
20 a servant of the people of this corporate municipality you should in Hoboken dwell, its burden share, and here money spend for subsistence.

Competing as a married woman you—and husband—mercenarily deprive a monitress, teacher appointment. In addition thereto you use in another municipality the money earned here. Desertion of the city which fostered and progressed your affairs is despicable; your continuing to function as a married woman teacher, especially in this season of dire distress consequent to wide spread business depression merits censure. You practically usurp a place which should be occupied by an unmarried woman teacher eligible. Moral sensibility of the injustice done should motivate your suspension of school activities.
30

Respectfully yours,

(Sgd.) J. P. LAVERTY.

40

J. P. LAVERTY,
President, Board of Education.

**Exhibit D, Annexed to Petition of Appeal of
Appellant, Angelina Koch Downs.**

COPY

BOARD OF EDUCATION

District of Hoboken, N. J.

JAMES P. LAVERTY
President

10

April 12, 1932.

Dear Teacher:

Pertaining to "query card" on which you indicated facts of school life:

Competing as a married woman you—and husband—mercenaryly deprive a monitress, teacher placement. The present variation in ratio of wage and living cost is comparable with the time your devoted Mother entered wedlock content with the gainful occupation of your worthy Father. In youth under proper parental guidance and the resourcefulness of a faithful school teacher, health, character and education came to you.

20

You cannot faithfully serve two masters. A family home management plus hospitality demands, make for fatigue and anxiety. In the classroom the teacher married shows temperamental irritability and proneness to distraction, abandons alert and intensive direction of study projects. In the ordinary course of events school teaching imposes mental distress and nerve strain. Research surveys now in progress concern the relative merit of child education under tutelage of a married and unmarried woman teacher.

30

Consequent to "registration" decrease and class consolidation next September, a teacher "unassigned" will be relegated to "substitute" service. Hoboken school children have a high

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*Exhibit D, Annexed to Petition of Appeal of
Appellant, Angelina Koch Downs.*

efficiency rating. This standard of excellence shall be conserved.

10 Your continuing to function as a married woman teacher, especially in this season of depression, is most censurable. You practically usurp a place which should be occupied by an unmarried woman, teacher eligible. Moral sensibility of the injustice done should motivate your suspension of school activities.

Respectfully yours,

(Sgd.) J. P. LAVERTY.

J. P. LAVERTY,
President, Board of Education.

20

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**Exhibit E, Annexed to Petition of Appeal of
Appellant, Angelina Koch Downs.**

COPY

BOARD OF EDUCATION

Hoboken, N. J.

JAMES P. LAVERTY

President

84 River Street,
June 23, 1932

10

Dear Teacher:

The Board of Education thanks the teacher—loyal to local authority, with a true interest here in the progress of business, finance, education, and other activities.

Health, happiness, home comfort is in Hoboken.

20

Reiterated is criticism contained in a letter mailed last April to a "group" of teachers. From a number of them came written or spoken acknowledgment. Some ignored the letter. Others exasperated, whispered words of derision. Many of them cherish a suburban realty obligation. The "mercenary" minded sustain defiance—the married woman teacher incubus shall be lifted from the monitress body force. Indefensible is refusal to help Hoboken extricate itself from difficulties incident to protracted business recession which has made for untenanted premises, shattered commercial trade, and restricted municipal financing.

30

Citizens of Hoboken merit gracious consideration—not silent or contentious contempt.

In a careful and constructive manner Mayor McFeely raises the revenue necessary for city purposes—including your wage. In some school districts salary has been deferred or defaulted.

40

*Exhibit E, Annexed to Petition of Appeal of
Appellant, Angelina Koch Downs.*

The financial structure of this city is sound.

10 To keep the Board of Education solvent stringent economy will continue. A recent "Census" shows Junior and Senior High class totals will remain normal. Elementary enrolment will decrease. It portends class reconstruction and teacher force reduction. Local and state examination tests completed by the elementary and higher class students show creditable grade accomplishment.

Educational efficiency and facility shall be maintained.

20 The teacher constant in devotion to Hoboken should urge associates recreant in their duty, to give complete allegiance to this school district. The recalcitrant "group" must fully meet the April letter requirements. Evasion will not be countenanced.

Very truly yours,

(Sgd.) J. P. LAVERTY.

J. P. LAVERTY,
President, Board of Education.

JPL/r

30

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**Exhibit F, Annexed to Petition of Appeal of
Appellant, Angelina Koch Downs.**

OFFICE OF
SUPERINTENDENT OF PUBLIC
SCHOOLS

Hoboken, N. J.

10

DANIEL S. KEALEY,
Superintendent

June 28th, 1932.

Miss Angelina Koch,
Public School No. 9,
Hoboken, N. J.

20

Dear Miss Koch:

You are hereby transferred from Public School
No. 9 to Public School No. 4.

This transfer to take effect immediately.

Very truly yours,

(Signed) D. S. KEALEY
Superintendent of Schools.

30

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**Exhibit G, Annexed to Petition of Appeal of
Appellant, Angelina Koch Downs.**

BOARD OF EDUCATION

Hoboken, N. J.

Office of the Secretary

10

JOHN F. LEWIS,
Secretary.

June 29th, 1932.

Miss Angelina Koch,
Public School No. 4,
Hoboken, N. J.

Dear Miss Koch:

20

Please take notice that the Board of Education of the School District of Hoboken at an Adjourned Stated Session held June 29th, 1932, adopted a resolution closing Public School No. 4, wherein you are a Teacher, and abolished your position and dispensed with your services as of June 30th, 1932, at the close of the school session.

Very truly yours,

(Signed) JOHN F. LEWIS
Secretary—Board of Education.

30

Service of a copy of the within Petition of Appeal is hereby acknowledged this 12th day of August, 1932.

JOSEPH GREENBERG,
Attorney for Respondent.

40

**Answer of Respondent, Board of Education of
the City of Hoboken.**

STATE OF NEW JERSEY,
DEPARTMENT OF PUBLIC INSTRUCTION.

<p style="text-align: center;">ANGELINA KOCH DOWNS, Appellant,</p> <p style="text-align: center;"><i>vs.</i></p> <p style="text-align: center;">BOARD OF EDUCATION OF THE CITY OF HOBOKEN, Respondent.</p>	}	Answer.	10
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The answer of the respondent, Board of Education of the City of Hoboken, to the petition of Angelina Koch Downs, appellant, says: 20

1. It admits allegations in paragraph 1.
2. It admits allegations in paragraph 2 but says that the appellant was engaged as a teacher in the elementary schools.
3. It admits allegations in paragraphs 3 except that the attendance was approximately thirty-five pupils and says that the average attendance of pupils during the year 1931-1932 was but thirty-one pupils. 30
4. It admits allegations in paragraph 4 but says, however, that the act of James P. Laverty was not the act of the respondent.
5. It admits that on June 29, 1932, a letter dated June 28, 1932, was delivered by hand to appellant stating that appellant was transferred from Public School No. 9 to Public School No. 4 and that 40

*Answer of Respondent, Board of Education of
the City of Hoboken.*

said letter is marked Exhibit F, but denies the balance of said paragraph.

6. It admits allegations in paragraph 6.
- 10 7. It admits allegations in paragraph 7 except the allegation that there are at present numerous teachers who are not protected by the tenure provisions of the New Jersey School Laws.
8. It denies allegations in paragraph 8.
9. It denies allegations in paragraph 9.
- 10 10. It denies the allegations in paragraph 10 except that part wherein appellant has been engaged as a teacher in excess of three consecutive years.

20

First Separate Defense.

That, on or about June 30, 1931, the Mayor and Council of the City of Hoboken had on deposit with the Steneck Trust Company of Hoboken, in various accounts, the sum of \$1,259,713, which sum represented all of the moneys of the City of Hoboken then available for municipal and educational purposes. That on said date the Steneck Trust Company was closed by the Commissioner of Banking and Insurance of the State of New Jersey and still remains closed. That up to the present time the City of Hoboken and the Board of Education have been unable to obtain from the Commissioner of Banking and Insurance any of its said moneys.

30

In addition thereto, the City of Hoboken has been confronted with the difficulty and inability to borrow money, because of the present economic and financial depression, and has been unable to receive and collect taxes due said City, which, in

40

*Answer of Respondent, Board of Education of
the City of Hoboken.*

other times, were readily obtainable. As a result thereof, for economical reasons arising from governmental policy, it was determined by the respondent to be necessary, as economy in the public interests, to reduce its expenses and to close Public Schools No. 4 and No. 7 and did, on June 29, 1932, duly pass a resolution, a true copy whereof is hereto annexed, made a part hereof and marked Exhibit R-1. 10

That the said Board of Education abolished the position of the said appellant, who was a teacher in the said School No. 4, closed by said resolution of the Board, and that a true copy of the resolution abolishing the position of said appellant is hereto annexed, made a part hereof and marked Exhibit R-2. 20

Second Separate Defense.

That the per capita cost for instruction in the School District of the City of Hoboken was high in comparison with other similar and comparable school districts of the State, and a reduction in said per capita cost for instruction was necessary as a matter of economy in the public interests. To effect a reduction in said per capita cost for instruction, said respondent closed its Public Schools No. 4 and No. 7. 30

Third Separate Defense.

That from 1927 to 1932 there has been a natural diminution of at least 800 pupils in the elementary schools of the School District of the City of Hoboken. That, notwithstanding the action of the respondent in closing said Public Schools No. 4 and No. 7 there are and will be at least 800 vacant 40

*Answer of Respondent, Board of Education of
the City of Hoboken.*

seats in the remaining elementary schools of the
School District of the City of Hoboken.

Fourth Separate Defense.

10 That, when said Public School No. 4 was closed
by respondent the appellant was a teacher therein
and her position was legally abolished and extin-
guished, and the action of the respondent in clos-
ing said schools was done in good faith, bona
fide, and for the purpose of economy.

Respondent prays that the petition of the said
appellant be dismissed.

20

JOSEPH GREENBERG,
Attorney of Respondent.

30

40

Exhibit R-1, Annexed to Answer of Respondent, Board of Education of the City of Hoboken.

WHEREAS the number of pupils attending the public school system of the City of Hoboken has been very materially decreased and diminished, and the per capita cost per pupil exceeds the per capita cost per pupil of other municipalities in the State, and the City of Hoboken is confronted with the public necessity of economizing, and the services of so large a force of teachers and principal are no longer required; and

10

WHEREAS there should be a discontinuance of the methods heretofore existing and the adoption of new ones in their places, whereby Public Schools No. 4 and No. 7, in the School District of the City of Hoboken, should, at this time, be permanently closed and the classes therein discontinued and abolished, and the pupils therefrom transferred to adjacent school buildings, whereby a thorough and efficient system of education will be maintained as heretofore; therefore

20

BE IT RESOLVED that Public School No. 4, located on Park Avenue, between Fifth and Sixth Streets and Public School No. 7, located on corner of Newark Street and Park Avenue, in the School District of the City of Hoboken, be and the same are hereby closed and the classes therein discontinued and abolished on Thursday, June 30th, 1932, at the close of the daily session of said schools.

30

40

Exhibit R-2, Annexed to Answer of Respondent, Board of Education of the City of Hoboken.

10 WHEREAS the number of pupils attending the public school system of the City of Hoboken has been very materially decreased and diminished, and the per capita cost per pupil exceeds the per capita cost per pupil of other municipalities in the State, and the City of Hoboken is confronted with the public necessity of economizing, and the services of so large a force of teachers and principal are no longer required; and

20 WHEREAS Public Schools No. 4 and No. 7, in the School District of the City of Hoboken, have been ordered permanently closed and the classes therein discontinued and abolished as of June 30th, 1932, at the close of the daily session of said schools, and the pupils therefrom ordered transferred to adjacent school buildings in the said School District of the City of Hoboken; and

 WHEREAS the said positions of the teachers and principal in said Public Schools No. 4 and No. 7, in the School District of the City of Hoboken, do not exist and are no longer necessary; therefor

30 BE IT RESOLVED that the positions or offices of principal and teachers in Public School No. 4, in the School District of the City of Hoboken, held by the following named persons, to wit: John J. Griffin, Hetty Shultz, Anna M. Rumohr, Augusta C. Geayer, Camille Turpin, Rai I. Driesen, Henrietta Seyd, Viola Bryan, Ethel Berkowitz, Maud P. Evans, Elizabeth Bonnard, Violet Hultz, Velia Ascione, Sadie Giaimo, Paula Scheinman, Madeline Kovalewski, Sadie E. Schroeder, Hazel M. Gallagher, Clara W. King, Florence Barrett,

40

*Exhibit R-2, Annexed to Answer of Respondent,
Board of Education of the City of Hoboken.*

Helen Southard, Angelina Koch, and in Public School No. 7, in the School District of the City of Hoboken, held by the following named persons to wit: Mildred Wintermute, Arline Oldrin, Lottie Schlank, Anna M. Beck, Margaret C. Fitzgibbons, Ada Smith, Marie Connell, Dorothea Strothoff, Louise M. Wissinger, Beatrice Allen, Margaret M. Johnston, Edna F. Crane, Ethel Sweatman, Edna M. Roberts, Hilda Loehmer, Martha Pawlik, Anna Ginsberg, Frieda E. Seyd and Maud Giusto, be and the same are hereby permanently abolished and the duties thereof dispensed with, discontinued and terminated on June 30th, 1932, at the close of the daily session of said schools, and the services of the aforementioned persons are hereby terminated and dispensed with on June 30th, 1932, at the close of the daily session of said schools.

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Reply of Appellant, Angelina Koch Downs.

STATE OF NEW JERSEY,
DEPARTMENT OF PUBLIC INSTRUCTION.

10	<p>ANGELINA KOCH DOWNS, Appellant,</p> <p style="text-align: center;"><i>vs.</i></p> <p>BOARD OF EDUCATION OF THE CITY OF HOBOKEN, Respondent.</p>	} On Petition. Reply.
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20 Appellant, Angelina Koch Downs, replying to the answer filed by respondent, says that:

1. She denies the allegations contained in the answer.

2. She denies the allegations contained in the first separate defense and states that the action of respondent in transferring appellant, dismissing appellant and dispensing with her services was not done in good faith, nor for the reasons assigned and alleged in said first separate defense and is illegal and in violation of the tenure of office provisions of the New Jersey School Law.

30

3. She denies the allegations contained in the second, third and fourth separate defenses.

ARTHUR T. VANDERBILT,
Attorney for Appellant.

**Notice of Appeal to State Board of
Education.**

BEFORE THE
STATE BOARD OF EDUCATION
OF THE STATE OF NEW JERSEY.

ANGELINA KOCH DOWNS, *et als.*,
Petitioners,

vs.

BOARD OF EDUCATION OF THE
DISTRICT OF HOBOKEN,
Respondent.

On Respondent's
Appeal From
Decision of the
Commissioner
of Education.

Notice of Appeal
to State Board of
Education.

10

20

*To Arthur T. Vanderbilt, Esquire, Attorney for
Angelina Koch Downs, et als.:*

Take notice, that the Board of Education of the District of Hoboken, hereby appeals to the State Board of Education of the State of New Jersey from that part of the decision of the Commissioner of Education of the State of New Jersey dated December fifteenth, Nineteen thirty-two, in and by which said Commissioner of Education determined that the following named persons, namely: Maud Evans Wall, Ethel Berkowitz Shapiro, Anna Rumohr Schloicka, Paula Scheinman Segal, Violet Hultz Wenz, Velia Ascione Liguari, J. Elizabeth Bonnard, Helen Southard Cross, Angelina Koch Downs, Hazel M. Gallagher, Madeline Kovalewski Boitano, Clara W. King, Florence Barrett Weldon, Sadie Giaimo Cannarozzi, Marie Connell Quinn, Ada Smith, Margaret Fitzgibbons Flannery, Anna Beck, Mildred Win-

30

40

Notice of Appeal to State Board of Education.

10 termute, Lottie Schlank, Ethel Sweatman Dodson, Maud Giusto Leland, Martha Pawlik Bruhl, Anna Ginsberg Kaplan, Frieda Seyd, Hilda Loehmer Pantaleo, be reinstated as teachers and that their transfers were illegal and pay their salaries from July first, Nineteen thirty-two, and from that part of the decision of the Commissioner of Education wherein he determined that the following named persons, namely, John G. Griffin, Rae Driesen Flechtner, Camille Turpin, Viola M. Bryan, Margaret Johnston Kelly, Arline L. Oldrin, Edna Crane Eyskins, Beatrice Allen Wolven, be paid their salaries for the months of July and August, Nineteen thirty-two.


20 JOSEPH GREENBERG,
Attorney for Board of Education
of District of Hoboken,
Appellant.

January 9, 1933.

30

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**Points on Appeal of Appellant, Board of
Education of the District of Hoboken.**


 BEFORE THE
 STATE BOARD OF EDUCATION
 OF THE STATE OF NEW JERSEY.

10

ANGELINA KOCH DOWNS, *et als.*,
Petitioners-Appellees,

vs.

BOARD OF EDUCATION OF THE
DISTRICT OF HOBOKEN,
Respondent-Appellant.

On Respondent's-
Appellant's
Appeal from
the Decision of
the Commissioner
of Education.
Points on Appeal.

20

Appellant, Board of Education of the District of Hoboken, sets forth the following points on which it relies in support of the appeal heretofore filed by it.

1. The Commissioner of Education erroneously denied the motion of appellant to dismiss the petitioners petition at the hearing before the Commissioner, whereas said motion should have been granted.

2. The Commissioner of Education erroneously admitted into evidence, over the objection of the appellant, certain letters written by James P. Laverty, which letters had never been authorized or ratified by the appellant, and which letters were his individual acts and not binding upon the Board of Education.

30

3. The Commissioner of Education erroneously admitted into evidence, over the objection of appellant, the minutes of the meeting of the appel-

40

*Points on Appeal of Appellant, Board of
Education of the District of Hoboken.*

lant held April 18, 1932, in as much as said minutes were irrelevant and immaterial.

10 4. The Commissioner of Education erroneously held that the transfers of the appellees were illegal, whereas said transfers were legal, in that the appellant complied with Section 170 of the New Jersey School Laws of 1931, and the transfers were approved by the unanimous vote of the Board of Education.

20 5. The Commissioner of Education, in his decision, found as a fact that there had been a natural diminution in the number of pupils in the elementary schools, in the School District of Hoboken. Therefore, under Section 230, of the School Laws of 1931, and under Chapter 243, Laws of 1909, there was nothing to limit the right of the appellant to reduce the number of its teachers employed in the School District of the City of Hoboken.

30 6. The Commissioner of Education, having found as a fact that the financial condition of the School District of the City of Hoboken justified the reduction in its teaching corps, and also having found as a fact that there was no evidence of bad faith upon the part of the appellant to abandon and close School Buildings Nos. 4 and 7, erroneously decided that the Board of Education could not use its judgment and discretion in selecting those teachers who should be retained and those whose services should be dispensed with and effected by the closing of said schools.

40 7. The dismissal of the petitioners-appellees was not unlawful, nor the result of any unlawful discrimination, nor made in bad faith.

*Points on Appeal of Appellant, Board of
Education of the District of Hoboken.*

8. The decision of the Commissioner of Education was contrary to the weight of evidence and contrary to law.

9. The Commissioner of Education illegally decided that each petitioner-appellee was entitled to her salary from July 1, 1932.

10

10. The Commissioner of Education illegally decided that the following named appellees, namely: John G. Griffin, Rae Driesen Flechtner, Camille Turpin, Viola M. Bryan, Margaret Johnston Kelly, Arline L. Oldrin, Edna Crane Eyskins and Beatrice Allen Wolven, were entitled to their respective salaries for the months of July and August, 1932, notwithstanding said Commissioner found that, as to said appellees, their positions had been legally abolished on June 30, 1932.

20

11. The Commissioner of Education erroneously decided that John G. Griffin, Rae Driesen Flechtner, Camille Turpin, Viola M. Bryan, Margaret Johnston Kelly, Arline L. Oldrin, Edna Crane Eyskins and Beatrice Allen Wolven were entitled to their salaries for the months of July and August, 1932, without taking into consideration the date of their respective appointments by the Board of Education as teachers, and notwithstanding the fiscal year, governing schools, begins on the first day of July and ends on the 30th day of June, the latter date being the one when their positions were abolished.

30

12. The decision of the Commissioner of Education in ordering that the appellees be reinstated in their positions from which they were transferred is illegal.

JOSEPH GREENBERG,
Attorney for Board of Education
of the District of Hoboken.

40

**Notice of Appeal of Appellant, Rai Driesen
Flechtner.**

STATE OF NEW JERSEY,
DEPARTMENT OF PUBLIC INSTRUCTION.

10

RAI DRIESEN FLECHTNER,
Appellant,

vs.

BOARD OF EDUCATION OF THE CITY
OF HOBOKEN,
Respondent.

} Notice of Appeal.

20

*To Respondent, Board of Education of the City of
Hoboken:*

TAKE NOTICE that appellant, Rai Driesen Flechtner, hereby appeals to the Commissioner of Education of the State of New Jersey from the resolutions and orders adopted by the Board of Education of the City of Hoboken dismissing and dispensing with the services of appellant as an employee of the Board of Education of the City of Hoboken.

30

ARTHUR T. VANDERBILT,
Attorney for Appellant.

40

**Petition of Appeal of Appellant, Rai Driesen
Flechtner.**

STATE OF NEW JERSEY,
DEPARTMENT OF PUBLIC INSTRUCTION.

<p style="text-align: center;">RAI DRIESEN FLECHTNER, Appellant,</p> <p style="text-align: center;"><i>vs.</i></p> <p style="text-align: center;">BOARD OF EDUCATION OF THE CITY OF HOBOKEN, Respondent.</p>	}	<p>Petition of Appeal.</p>	10
--	---	--------------------------------	----

Rai Driesen Flechtner (nee Rai Driesen) hereby petitions the Commissioner of Education of the State of New Jersey to review and set aside the resolutions adopted by the Board of Education of the City of Hoboken dismissing and dispensing with the services of appellant, Rai Driesen Flechtner (nee Rai Driesen), as an employee of the Board of Education of the City of Hoboken. Appellant sets forth that said resolutions were unlawfully made and says that:

1. In 1919 appellant was engaged by respondent, Board of Education of the City of Hoboken, to teach in the public schools of the City of Hoboken, New Jersey, at a salary of \$900.00 a year, and in 1919 appellant commenced teaching in Public School No. 4 of the City of Hoboken, to which school appellant had been assigned.

2. Thereafter and during the school years to 1931-1932, inclusive, appellant was engaged by respondent as a teacher in the public schools of Hoboken. From October 1, 1919, to June, 1932, in-

*Petition of Appeal of Appellant, Rai Driesen
Flechtner.*

10 exclusive, appellant taught in the Hoboken public schools. During said period, appellant received varying yearly amounts as compensation, and during the school year 1931-1932 appellant received as compensation the sum of \$2,460.00, said sum being the maximum payable to school teachers in the public schools of the City of Hoboken under the prevailing salary schedules.

3. Appellant taught grade 5B¹ during the school year 1932 and said grade during said school year was attended by approximately 32 pupils. Since October 1, 1919, appellant has at all times taught in Public School No. 4 of the City of Hoboken.

20 4. Appellant is a resident of the City of Hoboken and is married. In April, 1932, James P. Laverty, president of respondent, Board of Education of the City of Hoboken, sent letters to the teachers in the Hoboken public schools who were non-resident or married or both. Copies of said letters are attached hereto, marked Exhibits A, B, C and D, and are made a part hereof, as though
30 fully set forth. Exhibit A was received by unmarried teachers, who had never been residents of the City of Hoboken; Exhibit B was sent to teachers who at one time lived in the City of Hoboken but subsequently became non-residents; Exhibit C was sent to married teachers who were non-residents of Hoboken; and Exhibit D was sent to married teachers living in Hoboken. Under date of June 23, 1932, a further letter was sent to teachers who were non-resident, married or both, a copy of said letter being attached hereto, marked Exhibit E and made a part hereof, as
40 though fully set forth herein.

*Petition of Appeal of Appellant, Rai Driesen
Flechtner.*

5. On June 29, 1932, letters were delivered to approximately 34 teachers who were either married, non-resident or both, advising them that they had been transferred to either school No. 4 or school No. 7. At the time of the purported transfers a similar number of school teachers in schools No. 4 and No. 7 received letters to the effect that they had been transferred to the various schools in which the married or non-resident teachers above referred to were teaching. Appellant and several other teachers who were married or non-resident or both and who taught in public schools No. 4 and No. 7 did not receive any purported transfers. 10

6. On June 30, 1932, a letter under date of June 29, 1932, was delivered by hand to appellant, advising that the Board of Education of the School District of Hoboken had adopted a resolution abolishing the position of appellant and dispensing with her services as of June 30, 1932. A copy of said letter is attached hereto, marked Exhibit F and made a part hereof, as though fully set forth herein. 20

7. There are at present numerous teachers in the public schools of Hoboken who are not protected by the tenure provisions of the New Jersey School laws and who have been teaching for periods of less than three years. Exclusive of the teachers who are married or non-resident or both, and who received letters to the effect that the Board of Education had dispensed with their services, there are teachers who are married, non-resident or both at present employed by the respondent, Board of Education of Hoboken. 30

40

*Petition of Appeal of Appellant, Rai Driesen
Flechtner.*

8. There has been no diminution in the number of pupils in public school No. 4.

10 9. Appellant alleges that the action of respondent in dismissing appellant and in dispensing with her services was not done in good faith nor for the reasons assigned and is illegal and in violation of the tenure of office provisions of the New Jersey School Laws.

20 10. Appellant has been engaged as a teacher in excess of three consecutive years. The purported dismissal of appellant was not made because of inefficiency, incapacity, conduct unbecoming a teacher or other just cause, and no charges have ever been made or contemplated against appellant.

Appellant therefore prays that an order be issued by the Commissioner of Education of the State of New Jersey, setting aside and declaring invalid the action of the Board of Education of the City of Hoboken in dismissing and dispensing with the services of appellant as of June 30, 1932, and for such other relief as may be proper.

30

ARTHUR T. VANDERBILT,
Attorney of Appellant.

40

*Petition of Appeal of Appellant, Rai Driesen
Flechtner.*

STATE OF NEW JERSEY, }
COUNTY OF ESSEX, } ss.:

RAI DRIESEN FLECHTNER (nee Rai Driesen),
being duly sworn upon her oath, according to law, 10
deposes and says:

I am the appellant named in the foregoing peti-
tion. I have read the said petition and the facts
therein contained are true, to the best of my knowl-
edge and belief.

RAI DRIESEN FLECHTNER.

Subscribed and sworn to before me }
this 2nd day of September, 1932. } 20

EVELYN T. ADAM
A Notary Public of New Jersey.

(Seal)

30

40

**Exhibit A, Annexed to Petition of Appeal of
Appellant, Rai Driesen Flechtner.**

COPY

BOARD OF EDUCATION

District of Hoboken, N. J.

10

James P. Laverty
President

April 12, 1932.

Dear Teacher :

Pertaining to "query card" on which you indicated facts of school life :

20

When an educator with your attainments was in demand here, you and other non-residents aspired for pedagogic recognition. Appointed—you became a servant of the people of Hoboken, but residence has continued elsewhere. Ethically and legally you owe a debt of habitation in the place where your official duty lies. Practically one-third of the pedagogic staff reside beyond the limits of Hoboken—you among the number—who in one year remove out of the city, a wage total of \$389000.

30

Interpret this letter as a summons for you to employ yourself in the interest of Hoboken—dwell here, perform a civic duty, share local burden, spend money for necessities of life, progress its affairs. Your material help is needed especially in this season of financial stringency.

40

Hoboken officials consistently support the cause of the teacher body, maintain salary schedule and provide the payroll check without the confusion which you know obtains in many school districts. In this time of dire distress a spirit of reciprocal good will should persuade you to abide here, con-

Exhibit B, Annexed to Petition of Appeal of Appellant, Rai Driesen Flechtner.

tribute to progress of our affairs rather than pursue the policy of resident aloofness which has continued for years.

A pretense of taking up abode in Hoboken will not suffice the purpose. An established genuine home is the objective of the authorities. May retrospection persuade you to pay this city the habitation obligation you owe it.

10

Respectfully yours,

(Sgd.) J. P. LAVERTY

J. P. LAVERTY
President, Board of Education

20

Exhibit B, Annexed to Petition of Appeal of Appellant, Rai Driesen Flechtner.

COPY

BOARD OF EDUCATION

District of Hoboken, N. J.

James P. Laverty
President

30

April 12, 1932.

Dear Teacher:

Pertaining to "query card" on which you indicated facts of school life:

In youth and in adult age you utilized Hoboken's estate to acquire education, also to obtain teacher appointment promotion. Thereafter you domiciled elsewhere.

A local supply of educators was scarce for several years of the post war period. Since 1925

40

*Exhibit B, Annexed to Petition of Appeal of
Appellant, Rai Driesen Flechtner.*

10 only Hoboken school graduates received appointment; over ninety per cent of our instructors claim Hoboken origin, a proportion of "home talent" greater than is usually found in an educational circle. Practically one-third of the pedagogic staff have resided beyond the limits of Hoboken—you among the number—who in one year remove elsewhere \$389000. of wage provided by your early life associates, the landlord, tenant, business concern group who pay tax for City, County, State purpose. As a servant of the people you have a civic obligation to dwell here, share local burden and spend money for necessities of life.

20 Consequent to "registration" decrease and class consolidation next September, a teacher "unassigned" will be relegated to "substitute" service. Hoboken school children have a high efficiency rating. This standard of excellence shall be conserved.

30 In this time of dire distress your desertion of the city which fostered and progressed your affairs is most censurable. A pretense of taking up abode in Hoboken will not suffice the purpose. An established genuine home is the objective of the authorities concerning you.

May retrospection persuade you to pay this city the habitation obligation you owe it.

Respectfully yours,

(Sgd.) J. P. LAVERTY

J. P. LAVERTY
President, Board of Education

**Exhibit C, Annexed to Petition of Appeal, of
Appellant, Rai Driesen Flechtner.**

COPY

BOARD OF EDUCATION

District of Hoboken, N. J.

James P. Laverty
President

10

April 12, 1932.

Dear Teacher :

Pertaining to "query card" on which you indicated facts of school life:

The present variation in ratio of wage and living cost is comparable with the time your devoted Mother entered wedlock, content with the gainful occupation of your worthy Father. In youth under proper parental guidance and the resourcefulness of a faithful school teacher, health, character and education came to you.

20

You cannot faithfully serve two masters. A family home management makes for fatigue and anxiety. In the classroom the teacher married shows temperamental irritability and proneness to distraction, abandons alert and intensive direction of study projects. Research surveys now in progress concern the relative merit of child education under tutelage of a married and an unmarried woman teacher.

30

In youth and in adult age you utilized Hoboken's estate to acquire education, also to obtain teacher appointment promotion. Thereafter you domiciled elsewhere. May retrospection persuade you to pay this city the habitation obligation you owe it.

Consequent to "registration" decrease and class consolidation next September, a teacher

40

*Exhibit C, Annexed to Petition of Appeal of
Appellant, Rai Driesen Flechtner.*

“unassigned” will be relegated to “substitute” service. Hoboken school children have attained a study standard of excellence which shall be conserved.

10 A number of years ago there was a shortage of local educators. Since 1925 however, only Hoboken school graduates received appointment. Ninety per cent of the teacher force is “home talent,” a proportion not equaled elsewhere. It is regrettable, but true, that one-third of this trained organization reside beyond the limits of Hoboken—you, among the number—who in one year remove elsewhere \$389000. of wage provided by your early life associates, the landlord, tenant, business concern group of taxpayers. As a servant of the people of this corporate municipality you should in Hoboken dwell, its burden share, and here money spend for subsistence.

20

Competing as a married woman you—and husband—mercenarily deprive a monitress, teacher appointment. In addition thereto you use in another municipality the money earned here. Desertion of the city which fostered and progressed your affairs is despicable; your continuing to function as a married woman teacher, especially in this season of dire distress consequent to widespread business depression merits censure. You practically usurp a place which should be occupied by an unmarried woman teacher eligible. Moral sensibility of the injustice done should motivate your suspension of school activities.

30

Respectfully yours,

(Sgd.) J. P. LAVERTY

J. P. LAVERTY

President, Board of Education

**Exhibit D, Annexed to Petition of Appeal of
Appellant, Rai Driesen Flechtner.**

COPY

BOARD OF EDUCATION

District of Hoboken, N. J.

James P. Laverty
President

10

April 12, 1932.

Dear Teacher:

Pertaining to "query card" on which you indicated facts of school life:

Competing as a married woman you—and husband—mercenarily deprive a monitress, teacher placement. The present variation in ratio of wage and living cost is comparable with the time your devoted Mother entered wedlock content with the gainful occupation of your worthy Father. In youth under proper parental guidance and the resourcefulness of a faithful school teacher, health, character and education came to you.

20

You cannot faithfully serve two masters. A family home management plus hospitality demands, make for fatigue and anxiety. In the classroom the teacher married shows temperamental irritability and proneness to distraction, abandons alert and intensive direction of study projects. In the ordinary course of events school teaching imposes mental distress and nerve strain. Research surveys now in progress concern the relative merit of child education under tutelage of a married and an unmarried woman teacher.

30

40

*Exhibit D, Annexed to Petition of Appeal of
Appellant, Rai Driesen Flechtner.*

Consequent to "registration" decrease and class consolidation next September, a teacher "unassigned" will be relegated to "substitute" service. Hoboken school children have a high efficiency rating. This standard of excellence shall be conserved.

10

Your continuing to function as a married woman teacher, especially in this season of depression, is most censurable. You practically usurp a place which should be occupied by an unmarried woman, teacher eligible. Moral sensibility of the injustice done should motivate your suspension of school activities.

Respectfully yours,

20

(Sgd.) J. P. LAVERTY

J. P. LAVERTY

President, Board of Education

30

40

**Exhibit E, Annexed to Petition of Appeal of
Appellant, Rai Driesen Flechtner.**

COPY

BOARD OF EDUCATION

Hoboken, N. J.

10

James P. Laverty
President

84 River Street,

June 23, 1932

Dear Teacher :

The Board of Education thanks the teacher—loyal to local authority, with a true interest here in the progress of business, finance, education, and other activities.

20

Health, happiness, home comfort is in Hoboken.

Reiterated is criticism contained in a letter mailed last April to a "group" of teachers. From a number of them came written or spoken acknowledgment. Some ignored the letter. Others exasperated, whispered words of derision. Many of them cherish a suburban realty obligation. The "mercenary" minded sustain defiance—the married woman teacher incubus shall be lifted from the monitress body force. Indefensible is refusal to help Hoboken extricate itself from difficulties incident to protracted business recession which has made for untenanted premises, shattered commercial trade, and restricted municipal financing.

30

Citizens of Hoboken merit gracious consideration—not silent or contentious contempt.

In a careful and constructive manner Mayor McFeely raises the revenue necessary for city

40

*Exhibit E, Annexed to Petition of Appeal of
Appellant, Rai Driesen Flechtner.*

purposes—including your wage. In some school districts salary has been deferred or defaulted.

The financial structure of this city is sound.

10 To keep the Board of Education solvent stringent economy will continue. A recent "Census" shows Junior and Senior High class totals will remain normal. Elementary enrolment will decrease. It portends class reconstruction and teacher force reduction. Local and state examination tests completed by the elementary and higher class students show creditable grade accomplishment.

Educational efficiency and facility shall be maintained.

20 The teacher constant in devotion to Hoboken should urge associates recreant in their duty, to give complete allegiance to this school district. The recalcitrant "group" must fully meet the April letter requirements. Evasion will not be countenanced.

Very truly yours,

(Sgd.) J. P. LAVERTY

J. P. LAVERTY

President, Board of Education

30

JPL/r

40

**Exhibit F, Annexed to Petition of Appeal of
Appellant, Rai Driesen Flechtner.**

BOARD OF EDUCATION

Hoboken, N. J.

OFFICE OF THE SECRETARY

John F. Lewis

Secretary

June 29th, 1932

Miss Rai I. Driesen,
Public School No. 4,
Hoboken, N. J.

My dear Miss Driesen:—

Please take notice that the Board of Education of the School District of Hoboken at an Adjourned Stated Session held June 29th, 1932, adopted a resolution closing Public School No. 4, wherein you are a teacher, and abolished your position and dispensed with your services as of June 30th, 1932, at the close of the school session.

Very truly yours,

(signed) JOHN F. LEWIS
Secretary—Board of Education.

Service of a copy of the within Notice and Petition of Appeal is hereby acknowledged this 7 day of September 1932.

JOSEPH GREENBERG
Attorney of Respondent.

10

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**Answer of Respondent, Board of Education
of the City of Hoboken.**

STATE OF NEW JERSEY,
DEPARTMENT OF PUBLIC INSTRUCTION.

10

RAI DRIESEN FLECHTNER,
Appellant,

vs.

BOARD OF EDUCATION OF THE CITY
OF HOBOKEN,
Respondent.

} Answer.

20

The answer of the respondent, Board of Education of the City of Hoboken, to the petition of Rai Driesen Flechtner, appellant, says:

1. It admits allegations in paragraph 1.
2. It admits allegations in paragraph 2 but says that the appellant was engaged as a teacher in the elementary schools.
3. It admits allegations in paragraph 3.
- 30 4. It admits allegations in paragraph 4 but says that the act of James P. Lavery was not the act of the respondent.
5. It admits allegations in paragraph 5.
6. It admits allegations in paragraph 6.
7. It admits allegations in paragraph 7 except the allegations that there are at present numerous teachers who are not protected by the tenure provisions of the New Jersey School Laws.
- 40 8. It denies the allegations in paragraph 8.

*Answer of Respondent, Board of Education of
the City of Hoboken.*

9. It denies the allegations in paragraph 9.

10. It denies the allegations in paragraph 10 except that part wherein appellant has been engaged as a teacher in excess of three consecutive years.

10

First Separate Defense.

That, on or about June 30, 1931, The Mayor and Council of the City of Hoboken had on deposit with the Steneck Trust Company of Hoboken, in various accounts, the sum of \$1,259,713, which sum represented all of the moneys of the City of Hoboken then available for municipal and educational purposes. That on said date the Steneck Trust Company was closed by the Commissioner of Banking and Insurance of the State of New Jersey and still remains closed. That up to the present time the City of Hoboken and the Board of Education have been unable to obtain from the Commissioner of Banking and Insurance any of its said moneys.

20

In addition thereto, the City of Hoboken has been confronted with the difficulty and inability to borrow money, because of the present economic and financial depression, and has been unable to receive and collect taxes due said City, which, in other times, were readily obtainable. As a result thereof, for economical reasons arising from governmental policy, it was determined by the Respondent to be necessary, as economy in the public interests, to reduce its expenses and to close Public Schools No. 4 and No. 7 and did on June 29, 1932, duly pass a resolution, a true copy whereof is hereto annexed, made a part hereof and marked Exhibit R-1.

30

40

*Answer of Respondent, Board of Education of
the City of Hoboken.*

10 That the said Board of Education abolished the position of the said appellant, who was a teacher in the said School No. 4, closed by the said resolution of the Board, and that a true copy of the resolution abolishing the position of said appellant is hereto annexed, made a part hereof and marked Exhibit R-2.

Second Separate Defense.

20 That the per capita cost for instruction in the School District of the City of Hoboken was high in comparison with the other similar and comparable school districts of the State, and a reduction in said per capita cost for instruction was necessary as a matter of economy in the public interests. To effect a reduction in said per capita cost for instruction said Respondent closed its public schools No. 4 and No. 7.

Third Separate Defense.

30 That from 1927 to 1932 there has been a natural diminution of at least 800 pupils in the elementary schools of the School District of the City of Hoboken. That, notwithstanding the action of the Respondent in closing said Public Schools No. 4 and No. 7, there are and will be at least 800 vacant seats in the remaining elementary schools of the School District of the City of Hoboken.

Fourth Separate Defense.

40 That, when said Public School No. 4 was closed by Respondent the appellant was a teacher therein and her position was legally abolished and extin-

*Exhibit R-1, Annexed to Answer of Respondent,
Board of Education of the City of Hoboken.*

guished, and the action of the Respondent in closing said schools was done in good faith, bona fide, and for the purpose of economy.

Respondent prays that the petition of the said appellant be dismissed.

JOSEPH GREENBERG,
Attorney of Respondent.

10

**Exhibit R-1, Annexed to Answer of Respondent,
Board of Education of the City
of Hoboken.**

WHEREAS the number of pupils attending the public school system of the City of Hoboken has been very materially decreased and diminished, and the per capita cost per pupil exceeds the per capita cost per pupil of other municipalities in the State, and the City of Hoboken is confronted with the public necessity of economizing, and the services of so large a force of teachers and principal are no longer required; and

20

WHEREAS there should be a discontinuance of the methods heretofore existing and the adoption of new ones in their places, whereby Public Schools No. 4 and No. 7, in the School District of the City of Hoboken, should, at this time, be permanently closed and the classes therein discontinued and abolished, and the pupils therefrom transferred to adjacent school buildings, whereby a thorough and efficient system of education will be maintained as heretofore; therefor

30

BE IT RESOLVED that Public School No. 4, located on Park Avenue, between Fifth and Sixth Streets,

40

*Exhibit R-2, Annexed to Answer of Respondent,
Board of Education of the City of Hoboken.*

and Public School No. 7, located on corner of Newark Street and Park Avenue, in the School District of the City of Hoboken, be and the same are hereby closed and the classes therein discontinued and abolished on Thursday, June 30th, 1932,
10 at the close of the daily session of said schools.

**Exhibit R-2, Annexed to Answer of Respondent,
Board of Education of the City
of Hoboken.**

20 WHEREAS the number of pupils attending the public school system of the City of Hoboken has been very materially decreased and diminished, and the per capita cost per pupil exceeds the per capita cost per pupil of other municipalities in the State, and the City of Hoboken is confronted with the public necessity of economizing, and the services of so large a force of teachers and principal are no longer required; and

30 WHEREAS Public Schools No. 4 and No. 7 in the School District of the City of Hoboken, have been ordered permanently closed and the classes therein discontinued and abolished as of June 30th, 1932, at the close of the daily session of said schools, and the pupils therefrom ordered transferred to adjacent school buildings in the said School District of the City of Hoboken; and

WHEREAS the said positions of the teachers and principal in said Public Schools No. 4 and No. 7, in the School District of the City of Hoboken, do not exist and are no longer necessary; therefor

*Exhibit R-2, Annexed to Answer of Respondent,
Board of Education of the City of Hoboken.*

BE IT RESOLVED that the positions or offices of principal and teachers in the Public School No. 4, in the School District of the City of Hoboken, held by the following named persons, to wit: John J. Griffin, Hetty Shultz, Anna M. Rumohr, Augusta C. Geayer, Camille Turpin, Rai I. Driesen, Henrietta Seyd, Viola Bryan, Ethel Berkowitz, Maud P. Evans, Elizabeth Bonnard, Violet Hultz, Velia Ascione, Sadie Giaimo, Paula Scheinman, Madeline Kovalewski, Sadie E. Schroeder, Hazel M. Gallagher, Clara W. King, Florence Barrett, Helen Southard, Angelina Koch, and in Public School No. 7, in the School District of the City of Hoboken, held by the following named persons, to wit: Mildred Wintermute, Arline Oldrin, Lottie Schlank, Anna M. Beck, Margaret C. Fitzgibbons, Ada Smith, Marie Connell, Dorothea Strothoff, Louise M. Wissinger, Beatrice Allen, Margaret M. Johnston, Edna F. Crane, Ethel Sweatman, Edna M. Roberts, Hilda Loehmer, Martha Pawlik, Anna Ginsberg, Frieda E. Seyd and Maude Giusto, be and the same are hereby permanently abolished and the duties thereof dispensed with, discontinued and terminated on June 30, 1932, at the close of the daily session of said schools, and the services of the aforementioned persons are hereby terminated and dispensed with on June 30th, 1932, at the close of the daily session of said schools.

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Reply of Appellant, Rai Driesen Flechtner.

STATE OF NEW JERSEY,
DEPARTMENT OF PUBLIC INSTRUCTION.

10

RAI DRIESEN FLECHTNER,
Appellant,

vs.

BOARD OF EDUCATION OF THE CITY
OF HOBOKEN,
Respondent.

On Petition.
Reply.

20

Appellant, Rai Driesen Flechtner, replying to the answer filed by respondent, says that:

1. She denies the allegations contained in the answer.

30

2. She denies the allegations contained in the first separate defense and states that the action of respondent in dismissing appellant and dispensing with her services was not done in good faith, nor for the reasons assigned and alleged in said first separate defense and is illegal and in violation of the tenure of office provisions of the New Jersey School Law.

3. She denies the allegations contained in the second, third and fourth separate defenses.

ARTHUR T. VANDERBILT,
Attorney for Appellant.

40

**Notice of Appeal of Appellant, Rai Driesen
Flechtner.**

STATE OF NEW JERSEY,
DEPARTMENT OF PUBLIC INSTRUCTION.

RAI DRIESEN FLECHTNER, Appellant, <i>vs.</i> BOARD OF EDUCATION OF THE DIS- TRICT OF HOBOKEN, Respondent.	}	Notice of Appeal.	10
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Appellant, Rai Driesen Flechtner, hereby ap-
peals to the State Board of Education from the
decision of the Commissioner of Education dated
December 15, 1932, sustaining the resolution of
the Board of Education of the District of Hobo-
ken dismissing and dispensing with the services
of appellant, Rai Driesen Flechtner, as of June
30, 1932.

ARTHUR T. VANDERBILT,
Attorney of Appellant.

30

40

**Points on Appeal of Appellant, Rai Driesen
Flechtner.**

STATE BOARD OF EDUCATION

10	RAI DRIESEN FLECHTNER, Appellant, <i>vs.</i> BOARD OF EDUCATION OF THE DIS- TRICT OF HOBOKEN, Respondent.	} Points on Appeal.
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20 Appellant, Rai Driesen Flechtner, sets forth the following points on which she relies in support of the appeal heretofore filed by her :

1. The dismissal of appellant as a teacher in the public schools of Hoboken was in violation of the tenure of office provisions of the New Jersey School Law (P. L. 1909, p. 398; C. S., p. 4763, sec. 106 A).

30 2. The dismissal of appellant was in violation of the terms of her contract and the provisions of the New Jersey School Law.

3. The dismissal of appellant was erroneous since her position was not abolished, she was employed for a period in excess of three consecutive years, and no charges were ever made or contemplated against her.

4. The dismissal of appellant was not made in good faith and was unlawful.

40

Testimony.

5. The dismissal of appellant was the result of unlawful discrimination.

6. The dismissal of appellant was erroneous since teachers not protected by the tenure of office act were employed by respondent at the time of appellant's dismissal and thereafter.

7. The dismissal of appellant was contrary to law.

ARTHUR T. VANDERBILT,
Attorney of Appellant.

Testimony.

STATE OF NEW JERSEY,
DEPARTMENT OF PUBLIC INSTRUCTION.

ANGELINA KOCH DOWNS, *et al.*,
Petitioners,

vs.

BOARD OF EDUCATION OF THE
DISTRICT OF HOBOKEN, NEW
JERSEY,

Respondent.

Testimony.

20

30

Transcript of testimony taken before the Hon. Charles J. Strahan, a Deputy Commissioner of the Board of Education at Jersey City, New Jersey, on Thursday, September 29th, 1932, at 10:15 A. M.

40

Angelina Koch Downs, Petitioner—Direct.

Appearances:

ARTHUR T. VANDERBILT, Esq., for the Petitioners.

JOSEPH GREENBERG, Esq., and HORACE T. ALLEN, Esq., for the Respondent.

10

ANGELINA KOCH DOWNS, the petitioner, sworn.

Direct examination by Mr. Vanderbilt:

Q. Mrs. Downs, in February, 1911, were you engaged by the Board of Education of the City of Hoboken to teach in the Public Schools of Hoboken at a salary of \$600 a year? A. I was.

20 Q. And in February, 1911, did you commence teaching in the Public School No. 9? A. Yes.

Q. And from 1911 until the school year of 1931-32, were you engaged as a school teacher in the Public Schools of Hoboken? A. I was.

Q. And during that period did you actually teach in the Hoboken Public Schools? A. I did.

Q. And during that period, did you receive regular compensation? A. Yes.

30 Q. And during the school year of 1931-32, what was your compensation? A. \$2,460.

Q. And is that the maximum salary for your particular grade? A. Yes, for grade teachers.

Q. What grade did you teach during the 1931-32 school year? A. First grade.

Q. And about how many pupils were there in your class? A. 33.

Q. Since what year have you taught in Public School No. 9? A. Since 1911.

40 Q. Where do you live, Mrs. Downs? A. 10 Fairview Terrace, West New York.

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The Commissioner: I wonder whether at this time or later, we might have a stipulation by counsel, that any testimony taken in behalf of any witness, if it has application to any other one, may be included in that record?

Mr. Greenberg: We will stipulate there are two classes of cases; one, those teachers who were in the two schools, Schools No. 7 and No. 4 at the time the schools were shut and those teachers who were transferred into School No. 7 and School No. 4, and a case of each will represent and for all the others, one of each kind. 10

The Commissioner: Is there also involved, Mr. Greenberg, the question of salary due on any present contract? Is that involved in these cases? 20

Mr. Greenberg: I think there are some cases in which there is a question of two months' salary.

Mr. Vanderbilt: I think the only question involved of salary is the right to the remaining two months of salary, July and August, and I think that is the only question. 30

The Commissioner: You would want testimony in some cases specifically on that situation?

Mr. Greenberg: If I may suggest, I think it would be a good idea if we take up a case of each kind, as I stated before, and then put your proof in as to your salary dispute.

Mr. Vanderbilt: Yes, I think it would greatly expedite the proof and save the taking of reams and reams of testimony. 40

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10 Miss Koch is a representative of a class of teachers who were transferred from School No. 9, which still continues to be operated, to one of the two schools which was closed on the day following her transfer, and, in addition to the two classes that Mr. Greenberg mentioned, there appears also to be two other classes involved which cut across the two classes he mentioned, namely, that of the teachers that were dismissed, or rather suffered the affliction from the Board of Education of being non-residents or married or both, and I think that will make an additional classification in the testimony.

20 Mr. Greenberg: I have no objection to getting it on the record, if you call each teacher and give her classification as to marriage or residence and let that go into the record.

Mr. Vanderbilt: Suppose I just get through with the one case of Miss Koch, and after that we will stipulate to as many of these facts as we can relating to these other teachers.

30 Q. Miss Koch, are you married? A. Yes, Mr. Vanderbilt.

Q. And have been for how long? A. 5 years.

Q. In April, 1932, did Mr. James T. Lavery, the President of the Board of Education of the City of Hoboken, send letters to the Hoboken school teachers who were non-residents or married or both?

40 Mr. Greenberg: Of course, I object to that question.

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Mr. Vanderbilt: It is admitted in the answer.

Mr. Greenberg: He can ask her if she received a letter.

The Commissioner: Yes.

Mr. Vanderbilt: I am not referring, if the Commissioner pleases, perhaps we can save time on this, to paragraph 4 of our petition, which reads: "appellant is a non-resident of the City of Hoboken and is married. In April, 1932, James P. Laverty, President of Respondent, Board of Education of the City of Hoboken, sent letters to the teachers in the Hoboken Public Schools who were non-resident or married or both. Copies of said letters are attached hereto, marked Exhibit A, B, C, and D, and are made a part hereof, as though fully set forth. Exhibit A was received by unmarried teachers who had never been residents of the City of Hoboken; Exhibit B was sent to teachers who at one time lived in the City of Hoboken, but subsequently became non-residents; Exhibit C was sent to married teachers who were non-residents of Hoboken; and Exhibit D was sent to married teachers living in Hoboken. Under date of June 23, 1932, a further letter was sent to teachers who were non-residents, married or both, a copy of said letter being attached hereto, marked Exhibit E and made a part hereof, as though fully set forth herein."

The Commissioner: Mr. Greenberg is not objecting to the letters, but simply that the witness can only speak for herself, and if she testifies she received such a letter

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that applies to all the teachers of her classification and covers the situation.

10 Mr. Vanderbilt: I think we can save time on that if I just refer to paragraph 4 of the answer. It admits allegations in paragraph 4, but says, however, that the act of James P. Lavery was not the act of the respondent.

Mr. Greenberg: And we stand on that objection, that any letter sent or received from James P. Lavery was that of an individual and not any act of the respondent in this case.

Mr. Vanderbilt: If it please the Commissioner—

20 Mr. Greenberg: And it is immaterial whether they got any letters from James P. Lavery.

30 Mr. Vanderbilt: If the Commissioner pleases, if you will refer to the petitioner in this case and all the other cases, these 5 exhibits I have referred to are on letterheads reading as follows: "Board of Education, District of Hoboken, New Jersey, James P. Lavery, President." The sending of those letters is admitted. It is a matter of defense, it seems to me, for the Board of Education to make out that Mr. Lavery was not acting for the Board, but was acting for himself, and I would like to point out, further, that all these letters are signed both in his handwriting, J. P. Lavery and in typewriting underneath it, J. P. Lavery, President of the Board.

40 Mr. Greenberg: We admit that he sent letters. We can't get away from that, but the respondent in this case is the Board

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of Education. We deny his letters are material so far as the defense of the Board of Education is concerned. If he sent a letter, he sent it as an individual, and not as President of the Board.

Mr. Vanderbilt: Has he been fired, Mr. Greenberg?

10

Mr. Greenberg: No, but we say there is a way of proving whether this letter was a letter of the Board of Education, and until that proof is produced it is immaterial and not binding on the respondent. The mere fact that a man sent a letter, and we must admit that he sent it, does not prove it is an act of the respondent in this case.

Mr. Vanderbilt: Is it admitted that Mr. James P. Laverty is now President of the Board of Education of the City of Hoboken and was in 1931-32?

20

Mr. Greenberg: That is admitted.

The Commissioner: I will admit the letter. Testimony can show whether they went sent at the direction of the Board, by the evidence you submit.

Mr. Allen: May I submit this proposition to you: If these letters are relevant, they should be admitted in the appellants' cases. If it is irrelevant evidence, it should not be introduced or permitted to be introduced. The question involved in this case does not depend upon a letter sent out, whenever it was, in February or April. If the Board of Education authorize the President to send such a letter, then, of course, it would be evidence against the Board of Education, but the fact that any

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10 member of the Board or any officer of the Board or the President of the Board saw fit to write a letter signing himself, as an official or President or as a member of the Board, that is entirely irrelevant and illegal evidence to be introduced in the appellants' cases. The only purpose that I can see for their efforts to introduce this last line of evidence is that it is binding upon the Board of Education, and they must first show, before they can offer the letter in evidence, they must first show that the President was authorized by the Board to send such a letter. Until they do that, their effort to introduce the letter in evidence is merely an effort to introduce illegal, irrelevant evidence, and for that reason, we object.

20

The Commissioner: Have you anything more to say?

Mr. Vanderbilt: As I understood it, you had already ruled upon the matter.

The Commissioner: I have ruled on it, and if the attorney for the respondent wants an exception noted on the record, he may have it.

30

Mr. Greenberg: We ask an exception.

Mr. Allen: And did I understand that in your ruling you said it was for the Board of Education, the defendant, to show that the President was not authorized to send such a letter, or there never had been such a resolution passed?

The Commissioner: The witness testified she received such a letter from the Board of Education, and the Board of Education

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may show they never authorized the President to do so.

Mr. Vanderbilt: As a matter of convenience, may we refer to the copies of the letters which are attached to the several petitions, as if they were the exhibits themselves, rather than burden the record with the actual letters themselves? 10

Mr. Greenberg: We have no objection to that, Mr. Vanderbilt.

Q. On June 29, 1932, did you receive a letter, a copy of which is attached to your petition as Exhibit F, signed by D. F. Kealey, Superintendent of Schools, transferring you from School No. 9 to School No. 4? A. I did.

Q. And how was that letter received by you? 20
A. It was handed to me.

Q. Handed to you? A. Yes.

Q. On what day? A. The 29th of June. Was that Thursday? If it was it was the 29th.

Q. At what time in the day, Miss Koch? A. In the morning, the forenoon.

Mr. Vanderbilt: May it be stipulated that Exhibit F is the letter and may be treated as if the original letter was offered in evidence? 30

Mr. Greenberg: Yes.

Q. Were similar letters delivered to the 26 other teachers who were transferred from various schools to School No. 4 and School No. 7?

The Commissioner: Don't answer this unless you know definitely.

A. I think so. 40

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Mr. Greenberg: What was that question?

The Commissioner: She was asked about other teachers receiving letters, and I told her not to answer unless she knew of her own knowledge.

10 Mr. Vanderbilt: I think that would be covered by our stipulation.

The Commissioner: The fact is, we have already agreed that whatever she says in reference to herself applies to each one of the other teachers in her classification.

20 Q. At the same time, or on the same day that you received your letter marked Exhibit F, and that various other teachers received similar letters, did a similar number of teachers who were then teaching in Public School No. 4 and Public School No. 7 receive letters from the Superintendent of the Board to the effect that they had been transferred to the various schools in which you and the other teachers who received the letters transferred you to School No. 4 and No. 7 were teaching? A. Yes, I think so.

30 Mr. Greenberg: Of course, I don't think she knows all that of her own knowledge. We stipulate there have been teachers transferred from Schools No. 7 and No. 4.

40 Mr. Vanderbilt: May we have it stipulated that at the same time Miss Koch and the other teachers who were transferred from the various schools to Schools No. 4 and 7 received their transfer notices to that school, that an equivalent number of teachers, at least, were transferred from School No. 4 and School No. 7 to the other schools in the City of Hoboken to fill the

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positions which these teachers that I first referred left vacant?

Mr. Greenberg: We disagree in one thing, there were not a similar number, but there were some.

Mr. Vanderbilt: A greater number?

Mr. Greenberg: No, a lesser number. 10

Mr. Vanderbilt: I wonder if we can get the exact number?

Mr. Allen: Oh, yes, from the record.

Q. Was your class in School No. 9 filled by a teacher who was transferred from School No. 4 or School No. 7? A. I don't know. It was filled by some teacher, but whether she is from No. 4 or No. 7, I do not know.

Mr. Vanderbilt: You are checking up on that? 20

Mr. Greenberg: Yes.

Q. Do you know who the teacher is who took over your class? A. I do not.

Q. On June 30th, 1932, was there handed to you a letter dated June 29, 1932, advising you that the Board of Education of Hoboken had adopted a resolution closing School No. 4 and abolishing your position and dispensing with your services as of June 30th, 1932? A. Yes. 30

Mr. Vanderbilt: And may it be stipulated that this is Exhibit G?

Mr. Greenberg: Exhibit G, yes.

Mr. Vanderbilt: And that may be treated as if it were introduced as an exhibit?

Mr. Greenberg: Yes.

Q. Do you know, Miss Koch, whether or not there are teachers in the Public Schools in Ho- 40

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boken who are not protected by the tenure provisions of the laws of New Jersey and who have been teaching for a period of less than 3 years?

10 Mr. Greenberg: I object to the question, on the ground that it is absolutely immaterial and irrelevant. She is not competent to state whether there are or not.

The Commissioner: It calls for a conclusion on her part that she is probably not competent to give. She may know there are some.

Mr. Vanderbilt: That is all we want to know, whether there are any.

20 Mr. Greenberg: The same objection; it is absolutely immaterial and irrelevant whether there are teachers who have no tenure.

Mr. Vanderbilt: We think, as a matter of law, that is very relevant if the tenure law is going to mean anything, that teachers who have earned their tenure should not be dismissed while teachers who have not earned their tenure are still holding positions.

30 Mr. Greenberg: There is nothing in the State School Law or anywhere in the decision to justify such a conclusion on the part of Mr. Vanderbilt. There is absolutely nothing in the School Law on it. It is immaterial when the Board of Education uses its discretion. There is no limitation in that respect to its judgment.

40 Mr. Allen: But further than the objection that it is irrelevant and immaterial under the law, is the objection that would seem to me to be unsurmountable, namely, that this witness is not competent to tes-

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tify, and the question merely calls for her conclusion. If they desire to offer that line of evidence, thinking it is material, there is a proper way to do it. She is not in a position to know.

The Commissioner: I think that objection is well taken, that a person can be put on the stand who does not have tenure and the question raised. Whether she can say that or not, I am not sure. 10

Q. Do you know, Miss Koch, whether or not, as of June, 1932, there were any teachers teaching in the Public Schools of Hoboken who had not been teaching there for 3 years?

Mr. Greenberg: I make the same objection; that it is absolutely immaterial whether there was or was not. 20

The Commissioner: That objection may be well taken. There is a case before the Supreme Court on that particular point at the present time, and for that reason, as there is no definite judicial ruling upon it, I think it should be admitted in the evidence and stand for whatever value it may have, with your exception noted.

Mr. Greenberg: May I have my exception noted? 30

The Commissioner: Yes.

Question repeated.

A. I think so.

The Commissioner: Do you know?

Mr. Allen: If she merely thinks——

The Commissioner: I am asking her to say yes or no. If you don't know, say so.

The Witness: I don't know. 40

Mr. Allen: That is what I thought.

Colloquy of Counsel.

Q. During the period of which you have been a teacher in Hoboken have any charges ever been made against you?

10 Mr. Greenberg: We will admit there haven't been any charges, any charges of inefficiency or incompetency or anything of that kind.

Mr. Allen: No charges have ever been made or pending.

Mr. Vanderbilt: That is all.

Mr. Greenberg: No questions.

20 Mr. Vanderbilt: May we have a stipulation, gentlemen, that all of the teachers who were dismissed were either non-residents of Hoboken or were married, or both?

Mr. Allen: I don't think we know that.

Mr. Vanderbilt: Do you want me to call them?

Mr. Allen: Wouldn't that be a very quick and far better way, and then you would have their names and then you would know whether they were all in this classification.

30 Mr. Vanderbilt: I am perfectly willing to do it.

Mr. Allen: That would be a very short way. Just let the lady stand up and give their answer, and then we will stipulate as to it.

The Commissioner: When you stated in the petition they were married, was that admitted in the answer?

40 Mr. Vanderbilt: That is a good thought, Commissioner, and I will check on that. In

Colloquy of Counsel.

paragraph 4 of the petition it states that these four letters were sent to teachers who were non-residents or married or both, and paragraph 4 is admitted, except that it says the act of James P. Lavery was not the act of the respondent.

The Commissioner: The only question is, do they admit the appellant here is a non-resident of the City of Hoboken and is married? If that is admitted in the answer, I don't see any need to prove it. 10

Mr. Vanderbilt: Yes, that is admitted in the answer, so that saves that time.

Mr. Allen: But his desire is, as I understand it, to have us stipulate as to the remaining teachers who shall be governed by this particular case. 20

Mr. Vanderbilt: You see, it is in each petition and is admitted in the answer.

The Commissioner: It is already admitted by the petition and the answer.

Mr. Allen: Mr. Greenberg thinks it should be admitted.

Mr. Greenberg: I thought I was correct, but we can't agree to that, because that is not a fact.

The Commissioner: You have admitted it in your answer. 30

Mr. Greenberg: As to this particular case. If they desire to bring in the others, they will have to call them. We can't stipulate to that, because it is not a fact, because as I understand it, some of those who are in this same classification are residents of the City of Hoboken, at least as far as the records of the Board of Education are concerned, that is so. 40

Colloquy of Counsel.

Mr. Vanderbilt: But in the answer, which has been filed in each case, the first sentence of paragraph 4, which alleges that the appellant is a non-resident or married or both is admitted in each individual case.

10 Mr. Allen: Are you sure about that, as to the residence?

Mr. Vanderbilt: Yes.

Mr. Greenberg: I think we have the right, regardless of that, to cross-examine the teachers' residence.

The Commissioner: Yes, and I think probably on the ground it might have changed from the time of the pleadings. If it has any value, you had better prove it.

20 Mr. Vanderbilt: We have no objection to their cross-examining the teachers. I am simply trying to expedite the proof that would have to come out in accordance with the pleadings.

Mr. Greenberg: We will withdraw any objection to that. We will agree they are all in those classifications, either married, non-residents or both, but objection to its materiality, its relevancy, and ask an exception.

30 The Commissioner: Yes, an exception will be noted.

Mr. Vanderbilt: I am wondering if we may have it stipulated that no other teachers were dismissed at the end of the year, June, 1932, other than the teachers who are involved in these cases.

Mr. Greenberg: That is not a fact.

40 The Commissioner: In that classification of each we have the married teachers and the non-resident teachers transferred to

Angelina Koch Downs, Recalled—Re-direct.

these particular buildings, and then there was also a classification of married teachers or non-resident teachers who were already in the building, or doesn't that come into this case?

Mr. Vanderbilt: Yes, I think there are 8 of those cases.

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The Commissioner: And they probably form another group.

Mr. Vanderbilt: And I thought I should call one of those teachers and ask her these questions.

The Commissioner: Yes.

Mr. Vanderbilt: I would like to recall Miss Koch for a few questions.

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ANGELINA KOCH DOWNS, recalled.

Re-direct examination by Mr. Vanderbilt:

Q. May I ask you, Miss Koch, one further question? Did you receive your salary for the month of July and August, 1932? A. No.

Q. How many payments are made a year under the contract that you had with the Board of Education of Hoboken? A. We get two salaries, two payments a month for 10 months, and then a summer check covering two months.

30

Q. One check covering the two months of the summer? A. Yes.

Q. And the summer check for the two months of the summer is the one that you did not receive? A. Yes, July and August.

Mr. Greenberg: Of course, there is no claim in her case for any salary. It is one

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Angelina Koch Downs, Recalled—Re-direct.

of the cases that there isn't any claim set for salary. I think there are only two or three cases in which there is an out and out allegation for salary.

10 Mr. Jacobs: I took that matter up with Mr. Greenberg about a week ago, and he stated there wouldn't be any question about salary as to those teachers who were reinstated, he didn't have any objection, so we weren't going to bring it up today.

Mr. Greenberg: It wasn't just that way. I said, with reinstatement goes salary. I don't know, but in these cases I didn't think we were going to discuss the salary feature of it, because I think there is only one or two cases that have alleged for salary, all of the rest of them are silent on it.

20

Mr. Vanderbilt: Mr. Greenberg makes the objection, Mr. Commissioner, that I am willing to acquiesce in, and that is we take up the matter of dismissals first and then take up after that the question of salary.

The Commissioner: I think we will have to get the facts and then let the law have its application.

30 Mr. Vanderbilt: Suppose we leave that question.

Mr. Greenberg: On these questions that Mr. Vanderbilt submitted to Miss Koch or Mrs. Downs on the salary question, we reserve the right of cross-examination. There are a few questions to be submitted on salary. Unless he consents to strike them all out, we reserve our right to cross-examine the witness.

40 Mr. Vanderbilt: You can cross-examine on that, Mr. Greenberg.

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Mr. Greenberg: Suppose we consent that all the questions pertaining to salary be stricken out of the records, and after this case is in on dismissal we can then take that up.

Mr. Vanderbilt: All right.

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RAI DRIESEN FLECHTNER, the petitioner, sworn.

Direct examination by Mr. Vanderbilt:

Q. Miss Driesen, where do you live? A. 632 Garden Street.

Q. And are you married? A. Yes, Mr. Vanderbilt.

Q. When were you married? A. Seven years ago.

20

Q. And when did you first become a teacher in the Public Schools of Hoboken? A. October 1st, 1919.

Q. And to what school were you assigned? A. No. 4.

Q. And how long have you been teaching in School No. 4? A. Thirteen years, less two years' leave of absence.

Q. And in June, 1932, were you teaching in School No. 4? A. I was.

30

Q. On June 29th, 1932?

The Commissioner: Is this the same type of appeal?

Mr. Vanderbilt: This is the case of a teacher who was in School No. 4 at the time she was dismissed, and I suppose I should pursue that all the way through, so we will have a type case there. It will not take

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very long. Substantially all the fact allegations are admitted in the answer, so I was wondering whether it was necessary for me to go through the whole petition?

10 The Commissioner: That is entirely up to you. Since we are taking them in types, it might be well to follow the type through.

Q. At what salary were you originally employed? A. \$900.

Q. And at what salary were you employed in 1931-32? A. \$2,460.

Q. And was that the maximum payable to teachers in your class? A. Yes, it was.

Q. What grade did you teach in the year 1931-32? A. 5-E-1.

20 Q. And approximately how many pupils were there in your class? A. 32.

Q. Had your class for the 1932-33 been assigned to you? A. Oh, no, not for the 1933 year.

Q. For the fall of 1932, had you? A. We always remained in the same class.

Q. You always had remained in the same class?

The Commissioner: You mean the same class room?

30 The Witness: Yes, sir, the same class room.

Q. In the spring of 1932, did you receive certain letters on the letterheads reading: "Board of Education, District of Hoboken, New Jersey, James P. Laverty, President," and signed in long hand James P. Laverty and in typewriting James P. Laverty, President of the Board of Education?

40 Mr. Greenberg: I press an urge, of course, the same objection to the materi-

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ality of the question and its relevancy and also that she can't answer this question. It is a conclusion.

Mr. Vanderbilt: I asked her whether she received a letter such as that.

The Commissioner: Signed that way.

Mr. Greenberg: From the President of the Board of Education, as being an act of the Board of Education? 10

Mr. Vanderbilt: No.

Mr. Greenberg: I press the same objection, that it is immaterial.

The Commissioner: It will be admitted, with your exception noted.

Mr. Vanderbilt: And may we have it stipulated that the letters received are the exhibits attached to the petition? 20

Mr. Greenberg: A, B, C and D?

Mr. Vanderbilt: She has already testified to that.

The Commissioner: I don't think she testified to it.

Mr. Vanderbilt: I think not, Commissioner.

Q. On or about June 29th, did you receive a letter signed by John F. Lewis, Secretary of the Board of Education, on the letterhead entitled: "Board of Education, Hoboken, New Jersey, Office of the Secretary, John F. Lewis, Secretary," advising you that School No. 4 had been closed and abolishing your position and dispensing with your services as of June 30th, 1932? A. I did. 30

Mr. Vanderbilt: May we have it stipulated that is Exhibit F, attached to the petition?

Mr. Greenberg: Yes. 40

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Q. Do you know whether or not a considerable number of teachers were transferred from School No. 4 late in June, 1932?

10 Mr. Greenberg: Of course, I make the same objection, that she wouldn't know. The best of evidence of that would be the record itself.

The Commissioner: That is quite true. She can answer yes or no on the question, if she knows.

Mr. Greenberg: It calls for a conclusion. She doesn't know.

Question repeated.

20 Mr. Greenberg: I object to it, particularly to the words considerable number.

The Commissioner: Yes, I don't think that is a good question.

Q. Do you know whether or not late in June, 1932, any teachers were transferred from School No. 4 to other schools in Hoboken? A. I do know.

Q. Do you know how many were transferred from School No. 4? A. About 18, out of a faculty of 24.

30 Q. Were the teachers who were transferred from School No. 4 to the other schools at that time teachers who were non-residents of Hoboken and married?

Mr. Greenberg: I object to the question as being absolutely immaterial to this issue, whether they were or whether they weren't, and besides that, she doesn't know. She hasn't shown any knowledge of the situation.

40 The Commissioner: I think we are taking each teacher as a type, and she stands for

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a type, and she can't answer very well about the others.

Mr. Vanderbilt: But, Commissioner, can't she testify to what she knows?

The Commissioner: Yes.

Mr. Vanderbilt: That question doesn't relate to any of the teachers who have cases here, but relates to teachers who in June of that year were transferred out of School No. 4 and given positions in other schools, which still remained open, and I want to show, and I think I have a right to show, and it is the gist of our case to show that in School No. 4 and School No. 7 were left only those teachers who were married or non-residents or both, and into those schools to fill the vacancies created by transfers out of that school were brought teachers who were married or non-residents or both. In other words, my purpose being to show that the scheme of the Board of Education in this case was to put the married and non-resident school teachers, or both, into one school, those who had been singled out for letters by the President of the Board of Education, and then to close those schools.

The Commissioner: Yes, but isn't the record of the Board, or the Secretary of the Board, or some officer of the Board, the proper one to say whether teachers were transferred? This witness may think they were. She may understand they had a letter transferring them, but that doesn't prove it.

Mr. Vanderbilt: She may have seen the letter.

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The Commissioner: Suppose she saw it, then she interprets from that something which calls for her conclusion.

10 Mr. Vanderbilt: She knows better than the Secretary will whether these teachers who were transferred out of School No. 4 were non-resident or married.

Mr. Greenberg: If the transfer is a matter of record, the best way to prove it would be by the records themselves. She might think this was a transfer, she might think it was something else. The records are available. Mr. Vanderbilt can have the records, and that would be the best evidence of what happened. After all, this testimony is merely a conclusion as to what
20 happened. She doesn't know.

The Commissioner: Furthermore, when she testifies, she may testify to a few whom she may know and yet that wouldn't complete the case in relation to the others. I think the records of the Board should show it. If they don't, I will permit you to recall this witness and ask her the questions.

30 Mr. Allen: It would seem if Mr. Vanderbilt had approached this prior to this morning all this could have been stipulated. There is no effort on our part to have anything else except the facts. If you desire to take it up with us for a future hearing, that can be arranged.

Mr. Vanderbilt: We were trying to subpoena the Secretary and the Superintendent of the Board of the City of Hoboken for the last few days, and haven't been able to get within a block of him.
40

Rai Driesen Flechtner, Petitioner—Direct.

Mr. Allen: What has the serving of a subpoena got to do with it? If you had spoken to Mr. Greenberg or myself you could have gotten these facts.

The Commissioner: Both of you will address the Court, and the Court will listen to your argument. 10

Mr. Allen: I made a suggestion that if he wants to save time, both your time and my time, this can all be stipulated, because it is a matter of record.

Q. Who were the teachers who were left in School No. 4 after these other transfers had been effective?

Mr. Greenberg: You mean, when you say who, you mean their names? 20

Mr. Vanderbilt: Yes.

The Commissioner: If she doesn't give names it doesn't mean anything.

Q. Do you know what school teachers were left in School No. 4? A. Yes.

Q. Who were they? A. Mr. Griffin, the Principal, Miss Geayer, Miss Bryan, Miss Turpin and myself.

Mr. Greenberg: That is not your question. 30

Mr. Vanderbilt: Yes.

The Commissioner: I think not.

Mr. Vanderbilt: Will you repeat the question and answer?

(Question and answer repeated by the Stenographer.)

The Commissioner: She was giving the ones— 40

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The Witness: Left in, left in the building.

Q. And the Principal? A. And the Principal, yes.

10 Q. Do you know whether or not all the other school teachers in School No. 4 were transferred out when this group which you have just enumerated were left there? A. I do know. I saw many of the transfers.

Q. And were all the rest of them transferred out? A. They were, Mr. Vanderbilt.

20 Q. Do you know whether or not the Principal and the group of teachers who were left there, whose names you have just given, were all married or non-resident or both? A. They were all non-resident except myself. I live in Hoboken, but I am married.

Q. Do you know whether or not there are, at the present time, teachers employed in the Public Schools of Hoboken who have been teaching there for a period of less than three years?

30 Mr. Greenberg: I make the same objection as I made on the examination of the previous witness, that it is immaterial, incompetent and irrelevant and that she is not competent to answer that question. The best evidence would be the record itself.

40 The Commissioner: I think that is true. She can answer, however, whether she knows of anyone teaching less than three years, but I still agree with the attorney of the respondent that the records are probably available here and are the best evidence. If she knows, she may answer whether she knows of any that have been teaching less than three years.

Rai Driesen Flechtner, Petitioner—Cross.

The Witness: I know only the names that I have given.

Q. I mean of your own knowledge, do you know of any teacher teaching less than three years? A. No.

Q. Have any charges ever been made against you while you were a school teacher in Hoboken, or are there any charges now pending against you? A. No, Mr. Vanderbilt. 10

Mr. Vanderbilt: That is all.

Cross-examination by Mr. Greenberg:

Q. You were appointed in 1919? A. Yes, sir.

Q. You lived in Hoboken at that time? A. I have always lived in Hoboken. 20

Q. You said in answer to a question of Mr. Vanderbilt that you were left in No. 4 School? A. Yes.

Q. Isn't it a fact you always taught in No. 4 School? A. Yes.

Q. And the first time you were assigned to a class it was in No. 4 School? A. Yes, sir.

Q. You also said that you knew that the teachers that were let of No. 4 were either married or non-resident or both. Do you know their names? A. The teachers who were transferred out? 30

Q. Who were let out of No. 4 school? A. They were all residents of Hoboken, I believe, and no one was married.

Q. All residents of Hoboken? A. All residents of Hoboken.

Q. Do you know their names? A. I think I could think of them.

Q. Give me their names. A. Miss Tallon.

Q. How do you spell it? A. T-a-l-l-o-n. 40

Rai Driesen Flechtner, Petitioner—Cross.

- Q. Is she married? A. No.
- Q. Do you know where she lives? A. I think it is 700 Washington Street.
- Q. How do you know she lives there? A. Because I have sent her Christmas cards and mail, and they have never been returned to me.
- 10 Q. Is that the only way you know she lives there? A. No, I have met her going into the house and coming out of the house, and I have even visited her.
- Q. Give me another name. A. Miss Miller.
- Q. Is she married? A. No.
- Q. Where does she live? A. On Bloomfield Street, 700 and about 12.
- Q. How do you know that? A. I haven't visited her, but I certainly know she lives there.
- 20 Q. How do you know she lives there? A. As well as I know most people live in their homes. She told me so.
- Q. Have you ever written to her? A. Yes, I have often written to her.
- Q. Give me the name of the next teacher. A. Miss Ingelson.
- Q. Is she married? A. No.
- Q. Where does she live? A. On Hudson Street.
- Q. What number, do you know? A. I don't
- 30 know, between 8th and 9th Streets.
- Q. Have you ever communicated with her? A. Yes, at Christmas time.
- Q. You never got any mail from her? A. Yes, I have.
- Q. In what form? A. Christmas cards.
- Q. With her home address on? A. I can't recall that.
- Q. You don't remember that? A. No.
- Q. Give me the name of another teacher. A.
- 40 Miss Bowes.

Rai Driesen Flechtner, Petitioner—Cross.

Q. Where does she live? A. Garden Street, between 5th and 6th.

Q. Did you ever visit her? A. No.

Q. How do you know she lives there? A. I simply know she lives there; I have sent her cards the same way as the others, and I have met her coming in and out constantly.

10

Q. You have sent Christmas cards to all of these teachers? A. Practically all.

Q. Every year? A. Not every year, no.

Q. When was the last time you sent any Christmas cards to the teachers? A. I can't say exactly, but I imagine 1930-31.

Q. Did you send them in 1931? A. I believe I did, but I am not certain as to all.

Q. Was it your practice to send holiday greeting cards to all of the teachers in your school? A. Yes, usually.

20

Q. Was it or wasn't it? A. Some years I sent to everyone, other years not entirely so.

Q. You never visited Miss Bowes at her home? A. No.

Q. Did you ever telephone to her home? A. Yes, I have.

Q. To Miss Bowes? A. To Miss Bowes.

Q. Give me the name of another teacher? A. Miss Larson.

30

Q. What is her address? A. She lives on 12th Street, between Hudson and Washington.

Q. And you sent her cards, too? A. Yes, and I visited her.

Q. When was the last time you visited her? A. Two or three days before school closed.

Q. In 1932? A. 1932.

Q. Any other teachers? A. Miss Thaw, Miss Jemima and Miss Margretta Thaw, two Miss Thaws.

40

Rai Driesen Flechtner, Petitioner—Cross.

Q. Where does she live? A. I think it is 1129 Bloomfield.

Q. Have you ever visited her at her home? A. Yes.

Q. When? A. I can't recall exactly.

10 Q. How long ago, about? A. Within the last term.

Q. Within the 1932 school year? A. Yes, indeed.

Q. Anybody else? A. Miss Haggerty, but I don't know where she lives.

Q. You don't know where she lives? A. Only that she lives in Hoboken.

Q. How do you know that? A. She always said so.

20 Q. You never communicated with her, did you? A. Hardly.

Q. How do you know she said so? A. Because she told me so.

Q. You discussed with her her residence? A. Naturally, we often spoke about our homes.

Q. When was that conversation, long ago? A. Not particularly.

Q. During the last school year? A. I believe so.

30 Q. How long have you known Miss Haggerty? A. Ever since I have been in the building, casually, to speak to her.

Q. And only last year you discussed with her where she lived? A. Yes.

Q. You recall that very definitely? A. Yes.

Q. And you have known her since 1919? A. Yes.

Q. You don't know on what street or house she lives in? A. No.

40 Q. Any other teachers? You never sent any cards to Miss Haggerty, did you? A. I don't believe so.

Rai Driesen Flechtner, Petitioner—Cross.

- Q. And you never telephoned her? A. No.
- Q. You never visited her home? A. I never had any occasion to.
- Q. Anyone else? A. Miss Deitering.
- Q. Do you know where she lives? A. Yes.
- Q. Where? A. She lives on Garden Street; no, it is Bloomfield Street, I believe, between 10th and 11th. 10
- Q. Do you know that of your own knowledge? A. I certainly do, because I went to school with her sister, and I have visited at her home.
- Q. Recently? A. Not within the last year.
- Q. Anyone else? A. Miss Kerls.
- Q. Yes, where does she live? A. She lives on Washington Street, in Hoboken.
- Q. Do you know that of your own knowledge? A. I do. 20
- Q. Have you ever visited her? A. I have walked home with her on several occasions.
- Q. Anyone else? A. Miss Johnston.
- Q. Were any of these teachers in the kindergarten? A. The first two, Miss Miller and Miss Tallon.
- Q. Where does Miss Johnston live? A. I think it is Bloomfield Street, between 7th and 8th.
- Q. Do you know that of your own knowledge? A. Yes, I believe I do. I sent her cards, and they were never returned to me. 30
- Q. She never sent you back one? A. Yes, she did.
- Q. With her home address on it? A. I don't recall the envelopes.
- Q. You never visited her? A. No.
- Q. Give me the name of another teacher? A. May I ask how many teachers I have given?
- Q. 8, 10 including the kindergarten. A. Is that listing the Thaws as two people? 40

Rai Driesen Flechtner, Petitioner—Re-direct.

Q. That is 11. A. Miss Erk.

Q. Where does she live? A. On 11th Street.

Q. Do you know that of your own knowledge?

A. Yes, she moved at the time I was in the building, and mentioned her new home.

10 Q. Where? A. On 11th Street, between Bloomfield and Garden.

Q. Have you ever sent her any card? A. No, she was new to our building.

Q. Did you ever visit her? A. No.

Q. How long was she there in the building? A. I believe a year.

Q. She was new in the building? A. Yes.

Mr. Greenberg: That is all.

20 *Re-direct examination by Mr. Vanderbilt:*

Q. Do you know whether any married teachers have been retained in the Public School system of Hoboken this year? A. I do.

Q. Do you know who some of them are? A. Yes.

Q. Will you name them, please? A. There is a Miss Reil, No. 8 School; Miss Conklin in No. 8; Miss Beatty, I believe, in No. 6, and Miss Pinbar.

30 The Commissioner: M-r-s., Mrs. all these are?

The Witness: Yes.

Q. Any others? A. There are quite a few others, Mr. Vanderbilt. There are many in the Junior High, and there are others in the grades, too, but I can't just recall their names.

Q. Do you know Miss Bobby? A. Yes.

Q. Is she married? A. I believe so.

40 Q. Is she still retained in School No. 1? A. Yes.

Rai Driesen Flechtner, Petitioner—Re-direct.

Q. Who is she married to? A. Mr. Harold Button.

Q. Is Mr. Harold Button related to Mr. Button on the Board of Education?

Mr. Greenberg: I object to all this line of examination as being highly immaterial, to pick out one teacher in the City of Hoboken and show she is connected by marriage to someone on the Board of Education. That is immaterial to this issue.

10

Mr. Vanderbilt: I think it is very, very material.

Mr. Greenberg: Counsel doesn't contend that the Board of Education hasn't a right to appoint somebody that is connected by marriage or some other degree of kinship to the position of a teacher?

20

Mr. Vanderbilt: Absolutely they have the right, but in firing all the married teachers they ought to be systematic about it.

Mr. Greenberg: That is not so. Your own witness just testified that any number of married teachers were still in the system.

The Commissioner: I think that is not material, to pick out a single individual out of a group.

30

Mr. Vanderbilt: I would like to press that, if I may, Commissioner. No charges have been made against any of these teachers. The only imaginable ground of their being removed is that they were either non-resident or married or both. The statement is made here that the letters which Mr. Lavery sent were unofficial. It seems

40

Rai Driesen Flechtner, Petitioner—Re-direct.

10 to me, if it appears while a group of married teachers resident in Hoboken were discharged, and other married teachers were retained, that that indicates discrimination of the worst type, and if we go further and show that one of the married teachers retained was related to a Commissioner, it seems to me that is the very best type of proof on that point.

The Commissioner: That might be so, if you were going to follow that up, but to pick out a single individual, I think that is immaterial.

20 Mr. Greenberg: Of course, he talks of an imaginary reason. The only imagination is on the part of Mr. Vanderbilt. The justification for the abolition of these points is not the one Mr. Vanderbilt has given. We contend their status has absolutely nothing to do with the question here. The pleading set forth the reason for the abolition of the position was because of economical reasons facing the City Government and the Board of Education. The very fact there were married teachers still retained, to my mind, just proves the contrary, that there was no discrimination.

30 If you have to dismiss 41 teachers and you have 60 or 100 teachers all in the same group, do you mean to say we have to dismiss the whole 100 just to prove there was no discrimination? Of course, that doesn't follow. If it is the duty of the Board or their judgment to dismiss 41 teachers and because there are 100 teachers of that type, it doesn't follow that they

40 must dismiss the 100 just to prove there is

Rai Driesen Flechtner, Petitioner—Re-direct.

no discrimination, if the number they were to dismiss is 41.

Mr. Vanderbilt: It is just an accident, I suppose, that married teachers and non-resident teachers were transferred to these two schools the day before the axe dropped and these two schools were closed?

10

The Commissioner: I think that part of the testimony is all right to show these were married teachers or non-resident teachers who were transferred there. These schools evidently wouldn't hold all of them; and, therefore, as Mr. Greenberg says, you can't say because some are left that has any materiality. I don't think it does.

Mr. Vanderbilt: We can't prove the individual reason why this teacher in School No. 1 or that teacher in School No. 2 were retained, because we can't know the motives which may have actuated the Board, here and there, but we do know as you have just pointed out, that into these two schools were put all the married and non-resident teachers that the school would contain before the two schools were declared to be closed.

20

Mr. Greenberg: I didn't say that.

30

Mr. Vanderbilt: I don't want to blame you for it, but that is the fact.

Mr. Allen: But, Mr. Vanderbilt is now endeavoring to go outside of that, and he now proposes to prove something entirely different, to wit, not only with certain teachers who appeared to be non-residents and married, either transferred or permitted to remain in these two schools that had to be closed, but in the remaining

40

Rai Driesen Flechtner, Petitioner—Re-cross.

10 schools of the City of Hoboken there are certain teachers who may be married who have been retained by reason of the fact that they are related to President Hoover or the Governor of the State of New Jersey or members of the Board of Education or they got political influence. If we are going to go into that, if you think that is relevant, I don't know just when we are going to get through, because there is going to be a defense interposed to that kind of a question.

The Commissioner: I haven't ruled on it, yet. I will try the case. You present your objection and I will decide on it last.

20 Mr. Allen: That is my objection.

The Commissioner: I am not admitting it yet, as material and I sustain the objection that it is not material to the cases. I am willing that you should have an exception noted, if you wish.

Mr. Vanderbilt: I would like to have an exception noted.

The Commissioner: Yes.

Mr. Vanderbilt: That is all.

30 *Cross-examination by Mr. Greenberg:*

Q. Miss Driesen, you told Mr. Vanderbilt that there were 5 or 6, mentioning by name, married teachers still in the schools of Hoboken? A. Yes.

Q. Do you know if there are any others without mentioning their names? A. I believe there are.

Q. How many would you say there were? A. I couldn't say, because I don't know them all.

40 Q. A good number? A. I can't say that. No, I shouldn't say so.

Discussion.

Q. But, you do know that there are more than 5 or 6 that you mentioned? A. I believe there are.

Mr. Greenberg: That is all.

Mr. Vanderbilt: That is all. That, I think Commissioner, covers the two types of cases, the first being those who were transferred to School No. 4 or School No. 7 and the second one the type of teacher who was in School No. 4 or School No. 7 at the time the school was closed and had not been transferred there. 10

The Commissioner: They are the married type, but not the non-resident.

Mr. Vanderbilt: Miss Koch was both, married and non-resident.

The Commissioner: And the latter was married and a resident? 20

Mr. Vanderbilt: Married and resident. Do you want us to put on a type of teacher who was not transferred, who was a non-resident?

The Commissioner: Yes, unless there is some way of stipulating it.

Mr. Vanderbilt: I think, the pleadings admit that every one of these teachers in paragraph 4 was either a non-resident of Hoboken or married or both. Can't that carry over to every one of the cases without calling them individually? 30

Mr. Greenberg: Of course, we contend there is no such classification in the law. We will not admit any classification.

The Commissioner: But, you will admit it appeared that they were either married or non-resident, as the petition sets forth?

Mr. Greenberg: Married or non-resident or resident and married. 40

John F. Lewis, for Petitioner—Direct.

The Commissioner: Yes.

Mr. Vanderbilt: That is set forth in the various petitions and admitted in the answer.

10 The Commissioner: I think, that was agreed to anyway in the other situation in the other case.

JOHN F. LEWIS, sworn for the Petitioner.

Direct examination by Mr. Vanderbilt:

20 Q. Mr. Lewis, you are the secretary of the Board of Education of the City of Hoboken? A. Yes, sir.

Q. And have been for how long? A. Since 1917.

Q. Will you tell us the names of the teachers who are employed in the Hoboken Public Schools who have held their positions for less than 3 years?

30 Mr. Greenberg: Of course, I urge again the objection to the question that it is not at all material to this question, whether there are any at present in the system who have held their positions for less than 3 years.

The Commissioner: That is true, but I will admit the question. As I say, that may be relevant and I will admit it with your exception noted on the record.

Mr. Greenberg: I want to get my exception noted on the record.

40 A. I presume, you mean those who are in the elementary schools?

John F. Lewis, for Petitioner—Direct.

Q. Yes. A. You mean as of this date or as of the time of that action?

Q. I refer to those who have been appointed in 1929 or later? A. In 1929, on the first of September?

Q. Give us the date of their appointments? A. September 1st, Mary Purcell, Madeline Repetto— 10

Q. Have you got the schools there? A. Yes, No. 3 school.

Q. What was the second name? A. Madeline Repetto, School No. 6. Lavinia Bailey, No. 9, that was September 1st, 1929.

Q. All of these are— A. Those 3. All of them on September 4th, 1930. Albina Marotta, Grace Walsh—

Q. Schools please. A. Pardon me, Miss Marotta was in No. 8 and Miss Walsh in No. 5. Theresa DePalma school No. 8 and Helen Larsen school No. 8. That is all. 20

Q. Any since then? A. No.

Q. Are these teachers whose names you have given us still employed? A. Yes, sir.

Q. Can you tell me when Miss Harris was appointed?

Mr. Greenberg: Of course, the same objection to all these questions as being immaterial. 30

The Commissioner: Yes, and your exception may be noted on the record.

A. September 9, 1929.

Q. Miss Costello? A. She is no teacher, Miss Costello.

Q. No teacher? A. No.

Q. Miss Bryan? A. Do you mean Viola Bryan? 40

John F. Lewis, for Petitioner—Direct.

Q. I guess so. A. The only Miss Bryan we have is one of the plaintiffs in this case.

Q. When was Miss Carey employed? A. Miss Carey is in the junior high school.

10 Mr. Greenberg: Who are these teachers? These are not the teachers he gave in answer to your question before. Who are these teachers? I don't know who they are or what relation they have in this case.

The Commissioner: I think he is trying to see if the records are accurate.

Mr. Allen: Just to break down his statement that there were only 7 or 8.

20 A. Miss Carey is a teacher in the junior high school group and was appointed as such.

Q. When was she appointed? A. September 16, 1929.

Q. When was Miss Lochner appointed? A. You mean Miss Loehmer, she was appointed as a teacher of sewing, Miss Loehmer, when she was appointed. That is a special subject and she was appointed September 1st, 1930.

Q. Miss O'Rourke? A. Miss O'Rourke was never appointed. Miss O'Rourke was a substitute.

30 Q. Has she had the same class for the last 5 years, as a substitute? A. I don't think so. I couldn't say that. They were paid per diem when they worked.

Q. Does your record show whether she has had the same class for several years? A. They could show that, yes. I haven't those records here, but I would say she did not.

Q. She did not? A. Yes, sir.

40 Q. Can you get your records on that, Mr. Lewis? A. It would take some time. It would

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mean going over the payroll sheets and all that. It comes in on a separate payroll.

Q. Well, will you have someone to dig that out for you, so we can ask you the question later and have the answer from your records? A. Certainly.

Q. When was Miss McGraw appointed? A. 10
She was never appointed. Miss McGraw is not a regularly appointed teacher.

Q. What capacity does she serve the Board of Education? A. She is a substitute, paid when she works, so much per day.

Q. Will you find out whether she has had the same class for a long period of time? A. Yes.

Q. Miss Peggy McGuire? A. That would come under the same classification.

Q. Will you find out about her, too? A. Yes. 20

Q. And will you also find out, Mr. Lewis, whether or not these teachers who are referred to as substitutes are still teaching as such? A. I can tell you now, they are not.

Q. They are not? A. Absolutely.

Q. What does Miss Hayes do? A. We have a Miss Hayes who is an elementary school teacher and we have another one who is a physical training teacher, Miss Agnes Hayes, I presume you refer to. 30

Q. What school does she teach in? A. They go to different schools.

The Commissioner: You mean physical training teachers?

The Witness: Physical training teachers, they are teachers of special subjects and cover two or three schools, probably more than that.

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Q. Will you give us the class population of the various schools of Hoboken as of this fall? A. This fall, you mean opening in 1932?

Q. As compared with last year. A. The class population?

Q. Yes. A. I don't think I have that.

10

The Commissioner: In relation now to what particular appeal, the entire school or the elementary schools?

A. The elementary schools, the first 6 grades.

Mr. Allen: In the school district?

Mr. Vanderbilt: In the school district.

The Witness: I have it grouped in schools, but I have got the classes.

20

Mr. Greenberg: He wants the school district.

Q. Have you got it tabulated by the school district? A. The school district, I could give you that, sir. On September 26th there was enrolled in the elementary grades in the school district of Hoboken 5,431 and there was an attendance that day of 5,151.

Q. That was what date, Mr. Lewis? A. September 26th.

30

Q. This year? A. Yes, sir.

Q. You are familiar, Mr. Lewis, with the names of the teachers who are involved in these various petitions of appeal here? A. Yes, sir.

Q. Can you tell us whether or not there were any other teachers dismissed at the end of June, 1932? A. There were.

Q. Can you give us their names and what position they held? A. You just mean teachers?

40

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Q. Teachers, yes. A. There was a Miss Kelly who was a teacher of drawing, her position was declared vacant or abolished and then there were 3 or 4 teachers in the elementary group who took advantage of the retirement of the first of July and I don't believe they joined in this appeal.

Q. They weren't dismissed? A. Their services terminated on June 30th. 10

Q. And they retired? A. That is a separate proposition.

Q. But they were as a matter of fact put on retirement? A. Yes.

Q. Any other teachers? A. No other teachers.

Q. How long had Miss Kelly been a drawing teacher? A. Well, she was over 35 years, when she took advantage of her time.

Q. She retired then? A. She retired then, yes. 20

Q. So there were no teachers who were dismissed at the end of June, 1932, except the group who were involved in these cases here, and these four or five teachers whom you say were dismissed and were then retired?

Mr. Greenberg: At this time, I want to object to the use of the word dismissed; I think it may cause a wrong impression in the record.

Mr. Vanderbilt: What word would you like? 30

Mr. Greenberg: It isn't that, because we maintain it is not a dismissal.

The Commissioner: Counsel will reframe his question.

Mr. Greenberg: I don't think it was a dismissal.

Q. With the exception of the teachers whose appeals are here involved and Miss Kelly and the 3 or 4 other teachers— 40

John F. Lewis, for Petitioner—Direct.

The Commissioner: Whose services were terminated.

10 Q. —whose services were terminated and went on pension, were there any other teachers in the school system of Hoboken who at the end of June, 1932, found themselves without a position? A. No, sir.

Q. Now, will you give us please, Mr. Lewis, the number of school teachers who were transferred at the end of June from school No. 4? A. From school No. 4?

Q. Yes, from school No. 4? A. I can give you that, 17.

Q. And how many were transferred in? A. 16.

20 Q. Does those numbers of 17 and 16 include the principal? A. No, sir.

Q. How many were left in? A. How many were left in?

Q. Yes. A. Including the principal, there were 6.

Q. And those 6 are the 6 whose appeals are here involved? A. Yes, Henrietta Seyd, Rai Driesen, Augusta C. Geayer, Camille Turpin and Viola Bryan.

30 Q. And the 16 who were transferred in are teachers whose appeals are here involved? A. Yes.

Q. Will you give us the names of positions taken by the 17 teachers who were transferred out of school No. 4? A. I have it here in a report. I didn't just separate it. Well, Mrs. McMullen, from No. 4 went to the Brandt school.

40 Q. What grade please? A. It doesn't say the grade, Mr. Vanderbilt. Miss O'Rafferty went to the Brandt School and Miss Gertrude Bowes went to No. 3. Miss Ida Erke went to No. 5 from No. 4;

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Miss Margaret Haggerty to No. 6; Miss A. Arata to No. 6; the two Misses Thaw to No. 6; Miss J. McCammond to No. 6; Miss Gertrude Pope, Miss E. Ingelson to No. 8; Miss E. H. Kerls to No. 8; Miss E. L. Johnston to No. 8; Miss H. Larsen to No. 8; Miss A. Tallon to No. 9; Miss Florence Miller to No. 9.

10

Q. When they were transferred from No. 4 to these other schools did they take the grades in the other schools that they previously had taught in No. 4? A. That I don't know.

Q. Would it be possible to get that information? A. Yes.

Q. Will you get that information for me, please, Mr. Secretary? A. I will do that, yes, sir.

The Commissioner: Going back to that previous question about the 3 teachers who were substitutes, and to it has been testified is no longer teaching, do you still want the record on that?

20

Mr. Vanderbilt: Yes.

The Commissioner: Do you want to test him just a little bit more on that?

Mr. Vanderbilt: You see they are no longer teaching.

The Witness: You asked me about Miss O'Rourke and Miss McGraw and Miss McGuire. I told you they were not regular teachers. They were substitutes. They are not teaching now. There are no substitutes employed by the Board of Education this term.

30

The Commissioner: I wondered whether the record was material since that is the situation.

Mr. Vanderbilt: I think not.

40

John F. Lewis, for Petitioner—Cross.

The Commissioner: But you may have it in, if you wish it.

Mr. Vanderbilt: No, I don't think so.

Q. How many teachers were transferred in June, 1932, out of school No. 7? A. 17.

10 Q. How many were left there? A. There were 4.

Q. They are the teachers whose appeals are here involved? A. Yes, sir.

Q. And how many teachers were transferred into school No. 7? A. 16.

Q. And they are also teachers whose appeals are here involved? A. Yes, sir.

Q. Have there been any appointments this fall to the school system? A. No, sir.

20 Q. Has there been an assistant librarian appointed? A. No, sir.

Q. Miss Farrell? A. No, sir.

Mr. Vanderbilt: That is all.

Cross-examination by Mr. Greenberg:

Q. Mr. Lewis, you gave as a number of pupils for this school year, as of September 26th, as 5,431? A. Yes.

30 Q. And the number of pupils in the elementary schools up to the 7th grade, is that correct? A. That is correct.

Q. What were the number of pupils in those same grades in the Hoboken School District in the school year 1931-32? A. There were 5,936.

Q. 5,936? A. Yes, sir.

Q. And in 1932? A. In 1932, that is the same figure.

Q. What was it this current year? A. 5,431.

40 Q. A difference of 505 pupils? A. I had it here, set out both ways, the enrollment and the number

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in attendance on that particular day, 5,431 was the enrollment and the attendance was 5,151.

Q. What is your difference between the school year 1931 to 1932 and the school year 1932 to 1933? A. In that group?

Q. In those elementary schools up to the 7th grade? A. I will tell you that in just a moment. 271 less in 1931-32 than there was in 1930-31. 10

Q. That is not my question. How many less were there between 1931 and 32 and this current year? A. 505.

Q. 505 less this year? A. Yes.

Q. How many enrolled pupils did you have in the school year 1930-31? A. 1930-31, 6,263.

Q. What is the difference between the enrollment for the school year 1930-31 and the school year 1931-32? A. I don't understand that question, Mr. Greenberg. 20

Q. You have given us, Mr. Lewis, the difference in pupils less between the school year 1931-32 and 32-33? A. Yes.

Q. Now, I want the difference between the school year 1930-31 and 31-32? A. 270.

Q. 270 less from 1931-32 than from 1930-31? A. That is correct.

Q. Have you any figures as to your attendance for 1929-1930? A. 6,485. 30

Q. Was that more or less than you had in 1930-31? A. That was more.

Q. What is the difference between the year 1929-30 and 1930-31? A. 270.

Q. Have you the figures available for the year 1928-9? A. I have, sir.

Q. What was the attendance? A. 6,704.

Q. Was that more or less than 1929-30? A. That was less and the number was 219.

John F. Lewis, for Petitioner—Cross.

Q. Was the total number of pupils for the school year 1928-9, that is, the elementary classes, more or less than the school year 1929-30? A. More.

Q. How much did they lose in 1929-30, as against 1928-29? A. 219.

10 Q. How many pupils less were there in the school at the close of the school year 1932 than at the close of the school year 1929? A. 760.

Q. According to your figures then, Mr. Lewis, there has been a lesser amount of pupils in attendance in these elementary schools up to the 7th grade since 1928 to the present time? A. Yes.

Q. And even this year, the current year, there has been a decrease of 505? A. Yes, sir.

20 Q. How many schools are there in Hoboken functioning now, elementary schools? A. 7.

Q. There were 9? A. Yes.

Q. Do you know or are there any vacant seats in the 7 schools, that are functioning, in the 7 schools now existing? A. Yes, sir, at the present time there are 773 vacant seats in the classes that are occupied for school purposes.

Q. How many vacant seats were there at the close of the school year 1932, June, 1932? A. 1,702.

30 Q. Vacant seats? A. Yes.

Q. You say there are 760 vacant seats today? A. 773.

Q. In the 7 remaining schools? A. Yes, sir.

Q. When you say vacant seats, you are including class rooms that are not being used? A. No, sir, I said those were the class rooms occupied.

Q. By students and by teachers? A. Yes, sir.

Q. Are there any vacant class rooms in the schools of Hoboken today? A. There are.

40 Q. How many? A. There are 5.

John F. Lewis, for Petitioner—Cross.

Q. Do you know how many seats there are in those 5 vacant class rooms? A. 170 seats.

Q. So there are 170 vacant seats in these vacant classes in addition to the 773 that are vacant that are being used? A. Yes.

Q. What is the Board of Education doing with these vacant class rooms? A. Leaving them go vacant. 10

Q. Any pupils in them, or students? A. Absolutely not.

Q. Any teachers assigned to them? A. No, sir.

Q. Have you compiled any figures to show how many teachers you had in 1928-29 when you had a registration or an enrollment of 6,704 in the elementary schools? A. 205 teachers.

Mr. Vanderbilt: How many was that, Mr. Lewis? 20

The Witness: 205.

The Commissioner: Elementary teachers?

The Witness: Yes, sir.

Q. That is 1928-29?

Mr. Vanderbilt: Did that include the permanent substitutes?

The Witness: I don't know as there were permanent substitutes then, sir. 30

Q. How many teachers did you have in the school year 1929-30 when you had a less number of pupils in the sum of 219? A. 204.

Q. What was the first one? A. 205.

Q. 205 and 204? A. Yes.

Q. In 1930-31, the school year, you said you had 270, 270 less pupils and how many school teachers did you have then? A. The same number, 204. 40

John F. Lewis, for Petitioner—Cross.

Q. There was no letting out of any teachers in those 3 years? A. No, sir.

Q. In 1931-32, when you had 271 less pupils than the previous year, how many teachers did you have in the elementary schools? A. 196.

10 Q. A difference of only 8 from the previous year? A. Yes.

Q. So, from 1928 to 1932 at the close of the school year in June, there was a difference of 760, is that right, 760 less pupils? A. 760 is correct.

Q. 760 at the close of the school year, June, 1932, as I understand it, you had 760 less pupils than you did at the close of the school year 1928-29 and in 1928-29 you had 205 school teachers in the elementary schools and at the close of the school year 1930 you had 196? A. Yes, sir.

20 Q. In other words, you had 9 less school teachers in the elementary schools, although you had 760 less pupils and approximately 1,700 vacant seats in the City of Hoboken? A. Yes.

Q. How many school teachers have you got now? A. 155.

Q. That is after the—how many were there, 41? A. Yes, sir.

30 Q. Do you know of your own knowledge what is the average class of the schools of Hoboken today? A. I think it is over 36, 36.

Q. From your experience in the public schools of the City of Hoboken or public school work, do you consider that a large sized class?

Mr. Vanderbilt: I am just wondering whether Mr. Lewis is a teacher or principal or something like that. He looks to me like a business man.

Mr. Greenberg: I shan't press it.

John F. Lewis, for Petitioner—Cross.

Q. What happened to the pupils that were in No. 4 and No. 7 school? A. The City was sort of redistricted and the children were sent to the schools in that district.

Q. And despite the fact they were absorbed in the other schools, you have together with vacant class rooms, approximately 1,000 vacant seats, correct? A. That is correct. 10

Q. Am I correct when I give these names as the teachers who you testified were not under tenure and employed in the Public Schools of Hoboken at the close of the school year 1932 and were the only one, May Purcell? A. Correct.

Q. Madeline Repetto? A. Yes.

Q. Lavinia Bailey? A. Yes.

Q. Albina Marotta? A. Yes.

Q. Grace Walsh, Theresa DePalma and Helen Larsen, 7 in all? A. In the elementary school group. 20

Q. Who had not yet obtained the benefit of tenure? A. Yes.

Q. Just one more question, these numbers that you gave a lesser amount of pupils over these 4 or 5 years that was not due to any epidemic or anything in the City of Hoboken? A. No, a natural decrease in the population.

Q. Do you know of your own knowledge what the population of the City of Hoboken was, say, 10 years ago? A. Well, it was approximately 70,000, nearer 75,000. 30

Q. Do you of your own knowledge know what the population of the City of Hoboken is at the present time? A. I think, the latest figure gave it as 56,000.

Q. What was the first figure? A. 75,000, it was over 70,000.

J. F. Lewis, for Petitioner—Re-direct—Re-cross.

Q. Approximately 19,000 loss of population in 10 years? A. Yes.

Mr. Greenberg: That is all.

Re-direct examination by Mr. Vanderbilt:

10 Q. A good many of these schools were built years and years ago, weren't they? A. Yes, sir.

Q. And some of these class rooms were built to accommodate over 50 pupils? A. Well, now, I wouldn't say that.

Q. You wouldn't say that wasn't so, would you?
A. I wouldn't say it was so. I don't think so.

20 The Commissioner: Suppose it were so, what is the point? Is there any point in it, if that should be so?

Mr. Vanderbilt: Getting to the point of the number of vacant seats, as to whether the rooms were built to accommodate so many pupils that they couldn't use them.

The Commissioner: If they were built for that number, they could still have that many in them. There is no law about it.

Mr. Vanderbilt: They might build a class room to accommodate 2 or 3 hundred.

30 The Commissioner: And teach some subject in that class room, such as law, English or music.

Mr. Vanderbilt: I guess that is all.

Re-cross-examination by Mr. Greenberg:

Q. No. 7 and No. 4 schools, were they old schools, Mr. Lewis? A. Yes.

40 Q. As compared to the other schools in the City of Hoboken, what would you say as to their condition? A. I wouldn't say they were as good as the others.

John F. Lewis, for Petitioner—Re-direct.

Q. Could you say in your opinion, they were the inferior schools, so far as condition was concerned? A. I could speak very well of No. 4 school, because our office is in that school.

Q. What is the condition of that school? A. We were obliged to put the toilet from outside into the building and the fumes are nauseating.

10

Q. And how about No. 7 school? A. No. 7 school, that is one of the schools where they swing open the doors and make a big room of it, and when they close the doors make smaller rooms. I think they are the two poorest schools in the city.

Q. In your opinion, Mr. Lewis, do you think that the pupils were less inconvenienced or more inconvenienced by the closing of those two schools? A. I think it was a very satisfactory arrangement. We haven't had any complaints at all.

20

Q. In your opinion, would you call the other schools that are functioning more convenient of access than the two that have been closed? A. No, I could only determine that from the fact that there have been no complaints.

Q. You have had no complaints? A. No.

Mr. Greenberg: That is all.

Re-direct examination by Mr. Vanderbilt:

30

Q. Mr. Lewis, could you get us figures showing the number of pupils in each of the classes, as of the opening of this small term? A. Yes.

Mr. Vanderbilt: When that is produced may we have it marked in evidence, Commissioner?

The Commissioner: Yes.

Q. You say there have been no complaints at all about the closing of No. 4 and No. 7 schools? A. No, sir.

40

John F. Lewis, for Petitioner—Re-direct.

10 Q. Haven't there been petitions filed by parents, asking to have these schools re-opened? A. There has been a request where there was an older member of a family going to another school and the mother wanted the child to go to that school, but there have been no complaints and there have been no petitions.

Mr. Vanderbilt: That is all.

Mr. Greenberg: That is all. Of course, I reserve the right to call Mr. Lewis as our own witness later on.

20 Mr. Allen: May I explain to you our situation? Mr. Hunter who is the assistant to the Commissioner of Revenue, and Finance, and Mr. Harry Zink, who is the auditor, today and tomorrow are the biggest two days of the entire year with them. The City has a million and a quarter of notes to be renewed and bonds to be taken care of, that ties them up all day today and tomorrow, but any time commencing the first of the week, they can be in attendance and, of course, we have got to prove by them the financial plights that the City has been placed in by the closing of the Steneck Trust Company, and other matters along those lines, to show the action of the Board was done in good faith. That is our defense, of course, and I have got to have those two witnesses here and I can't have them here until next week. Have you closed, Mr. Vanderbilt, with the exception of putting these matters in the records?

30

Mr. Vanderbilt: No.

40 Mr. Allen: Then, suppose we take an adjournment after he puts that in and we will

John F. Lewis, for Petitioner—Re-direct.

dig up anything he wants so he may add that to his case.

Mr. Vanderbilt: Are they the only two witnesses you will have, Mr. Allen?

Mr. Allen: They are the important witnesses.

Mr. Vanderbilt: Can we get rid of any of the rest of them today while the Commissioner is up here? 10

The Commissioner: We will probably proceed into the afternoon and then we will see what the situation is at that time, but we will adjourn now until 1:30.

AFTER RECESS.

20

Mr. Vanderbilt: May I call Mr. Lewis again?

The Commissioner: Yes.

JOHN F. LEWIS, recalled by the petitioner.

Re-direct examination by Mr. Vanderbilt:

Q. Mr. Lewis, can you give us the name of the teachers who were appointed during the year prior to September, 1929? A. I can get it for you. I haven't got that now. 30

Q. Would you get up such a list that can go in evidence by consent and run it back 5 years to the time of the appointment of the teachers whose positions were abolished at the end of June, 1932? You understand what I am driving at. You give me the names of those appointed since 1929 and run them all back for about 50 or 60 appointments. I think that is our prima facie case. 40

John F. Lewis, for Petitioner—Re-direct.

The Commissioner: Are you going into the salary situation at this time?

Mr. Vanderbilt: What is your thought on that, Mr. Greenberg, shall I put my evidence in on that now? May I go into that now?

10

The Commissioner: Yes.

Mr. Vanderbilt: Maybe Mr. Lewis can tell us something about that, the various teachers when they were appointed, are appointed as a rule in September?

Mr. Lewis: Not necessarily September. They have been appointed at different times.

20

Mr. Vanderbilt: Suppose you take the stand again.

JOHN F. LEWIS, recalled.

Re-direct examination by Mr. Vanderbilt:

Q. Well, if a teacher starts to work in September, we will say, of this year, appointed for the first time, she receives her salary in 12 parts? A. A. Semi-monthly installments we pay them.

30

Q. For 10 months? A. Yes.

Q. And during the summer she gets a check which covers two months, is that right? A. Right.

Q. When a teacher starts to work in September, 1932, let's say, when does she get her first check? A. If she were engaged on the first day of September, she would get her check on the 16th of September, for the first half of that month.

40

Q. And she would receive her summer check the following— A. They always have been paid

John F. Lewis, for Petitioner—Re-direct.

in the month of July. This year there was an exception, it wasn't paid in July.

Q. It was deferred until a little bit later, on account of some financial difficulty? A. That is right.

Q. The other teachers who are still in the force received their summer checks when? A. They did not receive any money until the first of August and then on the 15th. On the first of August they got their July salary and on the 15th of August they got a check for the first half of August and then on the first of September they got a check for the second half of August. 10

Q. This year they got three checks where in prior years they got one check? A. Those who are still in the service.

Q. Supposing a school teacher came into the service on September 7th, when would she receive her first check? A. On the 15th of September for a proportionate part of the first half of the month. 20

Q. Suppose she received her appointment on August 15th when would she receive her first check? A. She wouldn't get her appointment on August 15th, because there is no school during the month of August.

Q. So, each year the teachers did not get their July and August checks until after school had closed? A. That is correct. 30

Q. And the appointments to the school system, as I get it from your answer just given, starts in when school opens in September? A. Correct, if she were appointed the first of September.

Q. None of the school teachers whose cases are here involved have received their July and August salary, have they? A. For the reason that their services were terminated. You wouldn't pay anybody who didn't work for you. 40

John F. Lewis, for Petitioner—Re-cross.

Q. They didn't get any July and August pay?

A. No, they didn't, that is correct.

Q. And when they were retained, they were retained by the year, were they not? A. Since my tenure in the Board, they have been appointed at an annual salary.

10 Q. How long have you been there, Mr. Lewis?

A. Since 1917.

Q. And all of these teachers were appointed with a designated annual salary, were they not?

A. I wouldn't say all, because some of them antedated my services with the Board.

Q. All of them, during your period of service in the Board, for some 15 years, have been paid an annual salary? A. That is right.

20 Mr. Vanderbilt: That is all.

Re-cross-examination by Mr. Greenberg:

Q. Your records are available on the appointment of these teachers? A. Yes.

Q. And how they were appointed? A. Positively.

Q. And under what arrangement they were appointed? A. The resolution should indicate that.

Q. You are giving us your memory? A. Yes.

30 Q. Or testifying from your memory now? A. Yes.

Q. But you don't know how these resolutions read, do you? A. No, sir, not any specific one. I am treating it as a general proposition.

Q. And when does the school year end?

Mr. Vanderbilt: I object to that, as immaterial and irrelevant, that is a mere division of time in the minds of some school authorities.

40

John F. Lewis, for Petitioner—Re-direct.

The Commissioner: I don't know what line of questioning is to follow it. The question is when does the school year end, and I think that is a proper question. I don't know what significance it may have. We will have to wait and see that.

Mr. Greenberg: We maintain they were hired for the school year. 10

The Commissioner: At a certain salary?

Mr. Greenberg: And that the school year ended, and after that if they rendered no services to the City or the Board, they are not entitled to any compensation.

The Commissioner: You may answer the question.

Q. When does the school year begin and when does it end? A. July 1st to June 30th. 20

Mr. Greenberg: That is all.

Re-direct examination by Mr. Vanderbilt:

Q. What do you mean by the school year? A. That which is provided by law, and on which we base our calculation and apportion our money. We apportion our money for a school year beginning on July 1st and ending on June 30th. 30

Q. What about teachers who start to work on September 10, we will say, 1931, and was appointed at an annual salary for the school year? A. I couldn't really pay her, because if she stopped on June 30th and didn't work for the rest of the year, she couldn't be paid.

Q. What could she do during July and August, under the system under which the Hoboken schools are run?

Mr. Greenberg: I object to that, it is purely argumentative. 40

John F. Lewis, for Petitioner—Re-direct.

Mr. Vanderbilt: I mean for the Hoboken schools, what could she do?

Mr. Greenberg: It calls for a legal conclusion.

10 The Commissioner: It calls for a legal conclusion, yes, but first of all get the fact. This is a fact. What does she do during July and August for which she received this pay during July and August?

Mr. Greenberg: I am perfectly willing for him to answer that question.

The Witness: She does nothing, if her services are terminated. If her services would continue, she would get paid during July and August.

20 Q. There is nowhere she could teach during July and August, could she, in the Hoboken school system? A. No, but if her services were terminated by the Board of Education, or by her resignation as of June 30th, how can we consistently pay them?

Mr. Vanderbilt: That is a matter of law.

30 The Commissioner: The Court, of course, wants to see if a teacher is employed at an annual contract for a certain sum and she performs all the services expected of her for that year, now she is deprived of two-twelfths of the annual salary, and the Court wants to have that clearly in mind.

40 Mr. Allen: I think I could answer that. A budget has to be made up in which there will be appropriations for the maintenance of the various departments of the City, and the budget for a certain year when that is made up, that is for the school year which ends on July 1st, or the end of June, and

John F. Lewis, for Petitioner—Re-direct.

so if a teacher is appointed during that year at an annual salary, she would get paid for the number of months up to the expiration of that school year for which the appropriation is made.

The Commissioner: Yes, a Board of Education may contract within its appropriation, and if it contracts for \$2,000, and up to the 1st of July it hasn't paid the amount of the contract, it wouldn't have a right to make the contract, if it didn't have the \$2,000 to pay here. If it has contracted to pay her \$2,000, where is the money? 10

Mr. Allen: There is no money appropriated for anything further than that school year.

The Commissioner: How about the Board of Education, that contract for \$2,000? 20

Mr. Allen: They contracted to give her an annual salary of that much from the time of her appointment, up until the termination of the school year.

The Commissioner: I don't think so.

Mr. Vanderbilt: I will venture to say the contracts prevailed over the budget.

The Commissioner: The limitation of a Board of Education in contracting is fixed by its budget, but when it has been fixed, that and the non-available, then there either must have been a balance in the account and charged up to the budget or else the contract was improper. Unless you can show us the contract was to be paid at the rate of so much per month, then it is not an annual contract. 30

Mr. Allen: We don't know when these teachers were appointed. 40

John F. Lewis, for Petitioner—Re-direct.

Mr. Vanderbilt: It is admitted in the answer every time.

Mr. Greenberg: Mr. Lewis is on the stand as your witness, you must remember.

Mr. Vanderbilt: Yes, and I think he is doing fairly well.

10 Mr. Greenberg: I don't know when these teachers were appointed, and the best evidence is the resolution appointing these teachers.

20 Mr. Allen: Suppose we produce before you the budget for the year showing the calculations of the number of school teachers and the amount that was appropriated. Then, if there was any appointment made that exceeded those calculations in that appropriation, and if Mr. Vanderbilt sees fit to put that in, we will then contend as a matter of law, that it was an illegal contract. In other words, if I am appointed in September, 1931, at an annual salary, my salary if my position is abolished at the end of June, 1932, ends then. We contend that there is no meritorious claim for compensation after the period of time when the position has been abolished.

30 The Commissioner: Of course, I would like to know just how the appointments are made.

Mr. Allen: I should think, if you are going into that question, we will have to do that. That is a matter we can dig out.

The Commissioner: Only in those cases where it is raised in the pleading.

40 Mr. Greenberg: My recollection of these cases are, there are only two cases, maybe one or two more, where they raised the question of salary.

John F. Lewis, for Petitioner—Re-direct.

Mr. Vanderbilt: Mr. Greenberg, I understood Mr. Jacobs and you talked over this matter, and you had no objection to our raising the question here, as to all of them. We will have to come back for another hearing on it, if we can't agree to it.

The Commissioner: Suppose, if it is in any pleadings and a case is disposed of on those particular pleadings, it becomes indicative of what would be the ruling in any other case that would be raised. 10

Mr. Greenberg: If you indicate your ruling in one type of case; of course, that would be your ruling in the other cases.

Mr. Allen: We will dig up for him, as a matter of record, anything that is a fact, that the record will show, you may have that and we will stipulate it with you. 20

Mr. Vanderbilt: I have no objection to the resolution of appointments going in, but I am satisfied with Mr. Lewis' testimony on that point. I think he has testified very well.

Mr. Allen: That settles it, he thinks he has got it in.

Q. Who was William A. Kerr? A. My predecessor. 30

Q. And you recognize his signature, or you would recognize his signature if you saw it, I suppose? A. Yes.

Q. Is that his signature to a letter of September 2nd, 1915, on the letterhead of the Secretary of the Board of Education addressed to Miss Ethel Sweatman? A. I have seen that signature before. 40

John F. Lewis, for Petitioner—Re-direct.

Mr. Vanderbilt: I offer it in evidence.

Mr. Greenberg: I object to it on the grounds the best proof would be the resolutions themselves, and the resolutions themselves are available.

10 Mr. Vanderbilt: I can't agree with that. The recipient of a letter from the Secretary of the Board has a right to rely upon that letter. When one enters into a contract with a corporation and that contract is accepted by letter, he can rely on that letter. I am referring now to one of Mr. Kerr. My position is, we don't need the resolution, but that I might offer the letter referred to in evidence.

20 The Commissioner: It may be marked.

(Letter dated September 2nd, 1915, addressed to Ethel Sweatman, marked Exhibit P-1.)

Q. I show you a letter dated December 16th, 1919, on the letterhead of the Board of Education, District of Hoboken, New Jersey, John F. Lewis, Secretary, and ask you if this is your signature?
A. Yes, sir.

30 Q. And was that letter sent by you to Miss Marie Connell? A. Evidently, that is my stationery and my signature.

Mr. Vanderbilt: I offer it in evidence.

Mr. Greenberg: I still object on the ground the best evidence is available, and the best evidence is the minutes of the Board of Education.

40 The Commissioner: If he is willing to submit his case on that, that is up to him. I think also the minutes are the best evidence.

John F. Lewis, for Petitioner—Re-direct.

Mr. Vanderbilt: I offer that letter in evidence.

Mr. Greenberg: Do you admit it?

The Commissioner: Yes.

Mr. Greenberg: Grant me an exception.

The Commissioner: Yes.

(Letter dated December 16th, 1919, addressed to Miss Marie Connell, marked Exhibit P-2.)

10

Q. I show you a letter dated January 6th, 1925, addressed to Miss Velia Ascione and ask you if that is your signature? A. Yes, sir.

Q. Did you send that letter to the addressee? A. Yes.

Mr. Vanderbilt: I offer this letter in evidence.

20

Mr. Greenberg: The same objection.

The Commissioner: Yes.

(Letter addressed to Miss Velia Ascione marked Exhibit P-3.)

Q. I show you another letter—

The Commissioner: Why are we introducing all of these, Mr. Vanderbilt? We are trying type cases and now we are getting into a voluminous record on the same subject matter.

30

Mr. Vanderbilt: I am doing it, Commissioner, because these have different dates of appointment, like December, January and February, but I am not going to burden the record with many more.

Q. Mr. Lewis, I show you another letter dated September 17th, 1919, addressed to Miss Rachel

40

John F. Lewis, for Petitioner—Re-direct.

Driesen, and ask you if that is your signature?

A. Yes, sir.

Mr. Vanderbilt: I will offer it in evidence.

Mr. Greenberg: The same objection.

10

The Commissioner: The same objection each time and exception will be noted on the record.

(Letter addressed to Miss Rachel Driesen, dated September 17th, 1919, marked Exhibit P-4.)

20

Q. I show you another letter dated February 17th, 1916, addressed to Miss Maud Evans, and ask you if you recognize that signature? A. Yes, that is Mr. Demarest's signature.

Q. And he was formerly superintendent of the Board of Education of Hoboken? A. Superintendent of schools, yes.

Mr. Vanderbilt: I offer that letter.

(Letter of February 17th, 1916, addressed to Miss Maud Evans, marked Exhibit P-5.)

30

Mr. Greenberg: My same objection and exception is noted to this offer.

The Commissioner: Yes. Of course that raises a very interesting question. When a Board of Education gives a teacher a contract in December for an annual salary, as to its right to make a contract of that kind, since the courts have generally held it is a non-continuous body and is held to be the same as the State Senate. It is an annual organization. I mean, it is a very interesting question on these various dates of the

40

John F. Lewis, for Petitioner—Re-direct.

contract. I am glad to consider it, but I mean it is a little perplexing.

Mr. Vanderbilt: May we ask that copies of the resolutions of the appointment of all these teachers by the Board be prepared by Mr. Lewis at his convenience and offered as Exhibits?

10

The Commissioner: By Monday, can you have them?

The Witness: Yes.

The Commissioner: I suppose you will want to take a list of the names, that he wants the resolutions on?

The Witness: I have the list.

Mr. Allen: And then the appropriation for the year.

20

The Commissioner: I think if you have some types, or take one case as a type, it would be more convenient to have some of these go back over a number of years and would be very difficult to find. I think it is a very technical point, as to a contract dated in December and running from December to June in one fiscal year, under one budget, and then goes on from June to September in the second year, as to the funds available. Whether it is a valid contract or not is something that will be decided later.

30

Mr. Greenberg: That is the point Mr. Allen is trying to urge.

The Commissioner: Yes, I see that is to be raised. Services, of course, we accepted and paid for in the subsequent years, so in that way it makes a new contract, in a way. You lawyers can work on that and I will read what you have to say and then decide what should be done about it.

40

*Angelina Koch Downs, for Petitioner—
Re-direct—Re-cross.*

Mr. Vanderbilt: I wonder if I may recall the two witnesses I had on the stand this morning. Have you any questions of Mr. Lewis?

10 Mr. Greenberg: If you ask for the resolutions to be produced, I won't ask any more questions.

ANGELINA KOCH DOWNS, recalled by the petitioner.

Re-direct examination by Mr. Vanderbilt:

20 Q. When were you appointed first? A. February, 1911.

Q. And how were you paid?

Mr. Greenberg: Didn't we go into all that this morning?

Mr. Vanderbilt: I wonder if I may have that part of the record read in which I asked her these questions this morning. I am willing to let that stand, as her testimony now.

30 (Record read by the Court Stenographer.)

Mr. Greenberg: I will agree that that testimony remain in the record, as if you would ask the questions now and she would answer them.

Mr. Vanderbilt: All right, that is all.

Re-cross-examination by Mr. Greenberg:

40 Q. Mrs. Downs, have you rendered any services to the City of Hoboken or the Board of Education for the months of July and August?

Angelina Koch Downs, for Petitioner—Re-direct.

Mr. Vanderbilt: I object to that.

The Commissioner: That is factual. That you render any services? Whether it has any merit or material value, I don't know, but it is a question and it is a fact. Did you?

10

A. In the capacity of a school teacher, do you mean?

The Commissioner: In any capacity.

Q. In any capacity? A. No.

Mr. Greenberg: That is all.

Re-direct examination by Mr. Vanderbilt:

20

Q. Did you do the same in the summer of 1932 as you did for the school board in the summer of 1931 and all of the other successive years back to 1912? A. No, no teacher is employed for the summer. We are employed for 10 months.

Q. I don't think you got my question. Did you do the same work for the Board of Education of the City of Hoboken in the summer of 1932 as you did for them in the summer of 1931? A. Well, I didn't do anything, Mr. Vanderbilt.

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The Commissioner: The question was, did you do the same thing?

Q. You didn't do anything in the summer of 1931, did you? A. No.

Q. Or the summer of 1930? A. No.

Q. For the Board of Education? A. No.

Q. Or any summer back to 1912? A. No.

Mr. Vanderbilt: That is all.

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Angelina Koch Downs, for Petitioner—Re-cross.

Re-cross-examination by Mr. Greenberg:

Q. The summer of 1912 up to the summer of 1932, your services had not been dispensed with?

A. No.

Q. That is true, is it? A. Yes, that is true.

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Mr. Greenberg: That is all.

Mr. Vanderbilt: That is all. To save time, may we stipulate that if Mrs. Driesen was called, she would testify to the same thing that Miss Koch did?

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Mr. Greenberg: Does her petition contain the same paragraphs? As I understand the contention, Mr. Vanderbilt, you maintain that they would be entitled to salary from the date that their appointment took effect, their year would run from the date their appointment took effect, until the next year at the same date?

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Mr. Vanderbilt: No, what I am maintaining for any of them, is they are entitled to their July and August salary. They were all appointed either in September or October or November or December. I am not contending for a full year. All I am contending for is that all of them are entitled, all those who have served the full school year of 1931-32, to their remaining installments, which were usually paid in one check, in what they call a summer check.

Mr. Greenberg: Regardless of the date of their appointment?

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Mr. Vanderbilt: Regardless of the date of their appointment. For example, if a teacher was appointed in December—I am not here contending that really and in all

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events she should be entitled to September, October and November salary—

The Commissioner: But if she worked after that and her work was accepted; then, of course, she would be entitled to it, is that your contention?

Mr. Vanderbilt: I contend, even if it should be found that the Board of Education had a right to dismiss these teachers, that they would in any event be entitled to their July and August salary for 1932, because they were to work 10 months a year and for the convenience of the City, and maybe for the convenience of the teachers, the payments were made as indicated, semi-monthly for 10 months and then one check for the two months in the summer. That is my contention. What I was hoping for, was that that issue would be disposed of now.

Mr. Allen: The proper way to do that, would be for you to amend your appeal and we consent to it.

Mr. Vanderbilt: All right, then, it is agreed, that I shall be permitted to amend the pleadings by adding a paragraph dealing with the 1932 summer salary check.

Mr. Allen: And that we be permitted to amend our answer.

Mr. Vanderbilt: I think that covers the situation. Rather than call Miss Driesen again, I wonder if we can't stipulate the same testimony would apply to her case?

Mr. Allen: We can stipulate that all of them would answer the same as Miss Koch, subject to all objections.

Mr. Vanderbilt: Subject to your legal objections. With that stipulation, Mr. Com-

John F. Lewis, for Petitioner—Re-direct.

missioner, I think we close our case. May I ask Mr. Lewis one question, as my witness?

The Commissioner: Yes.

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JOHN F. LEWIS, recalled by the petitioner.

Re-direct examination by Mr. Vanderbilt:

Q. Mr. Lewis, there are provisions, are there not, in the resolution of the Board for teachers receiving stated increases, from a minimum to a maximum? A. That is correct.

20 Q. And those increases in salary begin one year after the date of appointment, regardless of the school year? A. Yes, sir.

Mr. Vanderbilt: That is all. That is our case.

30 Mr. Greenberg: At this time, Mr. Commissioner, I move for a dismissal of all these cases, on the ground that the appellants have not sustained the allegations contained in their petitions of appeal, with the exception of this last amendment to their pleadings for salary during the month of July and August. There is practically an admission or agreement contained in the facts of the appeal. The controversy arises over paragraph 9, in the petition of appeal, which reads as follows: "appellant alleges that the action of Respondent in transferring appellant to public school #4, and in dismissing of appellant and in dispensing with her services was not done in good faith nor for the reasons assigned and is illegal

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and in violation of the tenure of office provisions of the New Jersey School laws," that, to me, is the bone of contention. They allege that the action of the Board of Education was not done in good faith, and they must either succeed on that or they must fall. As I said before the answer practically conceded all the facts. They were teachers in the Public Schools of Hoboken, they came under tenure, the transfer is admitted, the closing of the schools is admitted, and the abolition of their positions and the dispensing with their services is admitted. The only thing to consider for the commissioner at this point is, have they sustained their allegations of lack of good faith. As the cases shape up now, I say, there is absolutely no testimony, not even the least, in the case of the appellants that would throw the burden upon the respondents to meet what they have offered. There hasn't been a bit of evidence of the lack of good faith, or the motive that actuated the passage of these resolutions or the action of the Board of Education. What have we here? We have teachers in the City of Hoboken, in the schools who were transferred. There isn't a single thing that has been presented by the appellants that challenges that transfer. Certainly there isn't anything under the State Law pertaining to schools that has challenged the right of the Board of Education to make these transfers. Their right is unlimited in these transfers, unless they show bad faith. Where have they in connection with these transfers showed the least bit of evidence,

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10 that the Board of Education in its discretion as an executive body running the schools in the City of Hoboken were motivated or actuated by any bad faith? The mere fact that teachers happen to be in a certain class is no evidence of bad faith, or if she was a single teacher that in itself, wouldn't be evidence of bad faith, if she were dismissed. As the case stands, what has the Commissioner got in the record to charge this Board of Education that it has done something with bad faith? What have we got to meet? Certainly, under the decisions the Board of Education has a right to transfer, and it doesn't make any difference if they transfer a day in advance, a month in advance or a year in advance. There is no limitation under the school law. It doesn't say the Board in transferring anybody must do it within 5 months or a year or one day. If this Board had in its judgment, the body that is charged with the responsibility of the Schools of the City of Hoboken, if this body in its judgment transferred these teachers a year or a month or a day, unless they showed bad faith, that transfer is legal until it is proven illegal, because of the fact there isn't anything in the law that says the Board must transfer them a week or a month or a year in advance. Any transfer which is clothed with legality is a good transfer under the cases and under the decisions of the Court. I say, we have nothing at this time to meet. Yet, from his own witness he made Mr. Lewis his own witness, from his own witness the record stands this way, that there

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has been a natural diminution in the school district of the City of Hoboken for the past 4 or 5 years and he is bound by those answers of Mr. Lewis. The appellants are bound by the answers of Mr. Lewis. He was their witness. What is his testimony from 1928 right down to the present time? 10
 His testimony is, that there has been a loss of population in the City of Hoboken running almost to 20,000 in a period of ten years; and that there has been a natural diminution of population close to 800 over that period of time, and that there were at the end of the school year 1932, 1700 vacant seats in the remaining schools of the City of Hoboken; that, today you have got class rooms that are idle; you have got those class rooms that are being used, that are partially idle. They are bound by that and they stay within the State Law which says nothing shall limit the right of the Board where there has been a natural diminution. It comes exactly within that they have proven our case, better than we could prove it. I say, he must stand by the testimony of Mr. Lewis, that there has been a natural diminution in the population of the City of Hoboken. Let me just repeat to the Commissioner this part of the law, 20
 "nothing herein contained shall be held to limit the right of any school Board to reduce the number of principals or teachers employed in any school district when such reductions shall be due to a natural diminution of the number of pupils in said school district." They have shown a natural diminution and they have shown a dispens- 30
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ing with the services of 34 teachers. Under that section, I maintain that the Board of Education is not limited at all in its action in dispensing with the school teachers that were dispensed with. There is nothing in that paragraph that puts any restriction whatsoever on the Board of Education, and that there is nothing in the record so far to warrant even the slightest indication that the Board has been unfair. Teachers had to go. There is nothing under the natural diminution clause compelling us or naming the teachers who we should dismiss, so that the teachers in No. 4 school and No. 7 school could have come in and said why didn't you close No. 5 school and why didn't you close No. 6 school. Certainly, the teachers can't say you discriminated against me when you closed No. 4 school, why didn't you members of the Board close No. 6 school. If you are going to carry that argument the Board of Education would have been tied hand and feet. I maintain under this section, they didn't even have to resort to a transfer; that the superintendent of the Board, if it ratified his recommendation, could have walked into any school in the City of Hoboken and indiscriminately just let out 41 teachers, because of the conditions in the Public Schools of the City of Hoboken; that they didn't have to resort to a transfer; they didn't even have to do that, because under that clause, under the State Law there is absolutely nothing that limits the discretion or judgment of the Board where there has been a natural diminution, as they have

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proven by their own witness. I maintain, we have nothing to meet here. There isn't anything in here to charge any member of this Board with trying to defeat anybody's tenure. I maintain, we had to let teachers go and that those teachers regardless of who went would have charged the same thing. Whoever it was picked would have charged the same thing, and if that was the case, the Board of Education might as well close up shop. It is unfortunate that these teachers had to go. Certainly, we all feel for them, there isn't any question about that, but the fact that teachers had to go and these teachers went and there is nothing to limit the right of this Board in that respect. 10

Mr. Vanderbilt: Do you want me to talk? 20

The Commissioner: It doesn't make any difference.

Mr. Vanderbilt: I take it counsel hasn't read the letters which have been marked in evidence, which are the exhibits attached to the various petitions, or he couldn't have made the argument that he did with the feeling he manifested. I hope he didn't expect I was going to put the members of the Board of Education on the stand and say, "were you guilty of acting in bad faith," "did you intend to violate the tenure provisions of the School Law of the State of New Jersey." I am sure he didn't expect me to do that. Good faith, lack of good faith, are matters which are inferred; matters of reasoning, and when we have these letters written over the signature of the President of the Board of Education telling 30 40

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10 certain non-resident teachers and certain married teachers what he thinks of them as citizens, etc., and there is another bunch of letters telling certain teachers what he thinks of a teacher who has the temerity to get married and still continue to be teachers, and we have the spectacle of no resident or married teachers being left in school No. 4 and school No. 7, and those who are not non-resident or who are not married being transferred out of school No. 4 and No. 7 at the end of the year, and practically simultaneously with that other teacher who are non-resident or who are married being thrust into those schools, and then forthwith those schools being closed up, why you have got a situation of facts that cries out loud, that makes more noise than any witness could possibly make if he went on the witness stand. The lack of good faith, the deliberate intention to get rid of school teachers who are non-resident or who are married, regardless of any other consideration appears so manifest, that one is not required to argue it. It is not the facts, and takes no argument, but in addition to paragraph 9, we have paragraph 10 of our petition, which reads as follows:

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30 “Appellant has been engaged as a teacher in excess of 3 consecutive years. The purported dismissal of appellant was not made because of inefficiency, incapacity, conduct unbecoming a teacher or other just cause, and no charges have ever been made or contemplated against appellant.” On those facts, if the situation hasn’t been created

40 which compels the respondent to go on and

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demonstrate how these strange and mysterious things occurred, I can't imagine one where the burden of proof would ever be cast upon them.

Mr. Allen: May I suggest a little matter. In the Theckston case, which involved the transfer of a janitor, we find this wording, "if it could be proved that a janitor was placed in a position which it was intended to abolish for the purpose of defeating such persons' tenure rights, then *mala fides* would ward such action. There was no evidence, however, to the effect in this case." There was a case of a single person, a janitor, and so if he was transferred for the purpose of defeating the tenure of office that would be *mala fides* and be set aside, but where, as a result of many years of lobbying, going back in the days when I was in the Assembly and Elizabeth Allen was the leader endeavoring to obtain the tenure of office for teachers, a tenure of office act was passed and the Legislature has said, if a teacher has been employed for 3 years, she cannot be removed except upon charges. That is the tenure of office, but when the Legislature said that, they followed with that provision that my colleague, Mr. Greenberg, read, following directly after the tenure of office provision, that no teacher who has been employed for 3 years can be removed, and then there follows that wording, "nothing herein contained shall be held to limit the right of any school board to reduce the number of principals or teachers when such reduction shall be due to a natural diminution of the number of

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10 pupils in said school district," so the Legislature in its wisdom, when it saw fit to give to the teachers a tenure of office to remove them from politics, they also saw perhaps the situation that Hoboken was confronted with, during the month of June, when we have no money, when we were short of funds, and when we had what was not in the janitor's case, nothing of that sort. When we had this natural diminution in the number of pupils, then the tenure of office act does not apply. Tenure of office is out. There is no tenure of office if there has been a natural diminution, that is when the Board of Education is the only body that can act. When they reduce the number of teachers and principals, if they have got a natural diminution, then there is nothing in the tenure of office act, according to the act of the Legislature, to apply. That being the case, I take it *mala fides* has got nothing to do with this situation. Without our putting in our case, the City, the Board of Education, it has been established that there was a natural diminution. There is no question about that. I saw you, Mr. Commissioner, make a notation of it, the stenographer has it in his notes and that has been proven by the appellants. They have proven that natural diminution in the number of scholars and there is nothing in the tenure of office act to apply and to prevent the Board of Education from limiting the number of principals and teachers and dispensing with their services. That is the law, and there is nothing to contradict it.

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30 The Commissioner: Under the situation existing in Hoboken, I think, it is indica-

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William H. Gilfert, for Respondent—Direct.

tive that a Board of Education can decrease the number of teachers. I think, there is, however, evidence that indicates bad faith; and therefore, I will deny the motion.

Mr. Greenberg: I pray an exception.

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WILLIAM H. GILFERT, SWORN for the respondent.

Direct examination by Mr. Greenberg:

Q. You are a City Commissioner of the City of Hoboken, Mr. Gilfert? A. I am.

Q. What Department have you charge of? A. The Department of Revenue and Finance.

Q. What other position do you hold in the City of Hoboken? A. I am City Treasurer, Collector of Revenue, Water Commissioner, Custodian of school money.

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Q. Were you Custodian of school money in June, 1932? A. I was.

Q. In June, 1932, what was the depository for the City's money?

Mr. Vanderbilt: Objected to, as immaterial and irrelevant.

The Commissioner: I don't know, if the school positions are to be abolished and the finances of a district are material evidence, I would think. The Board here has abolished positions on the ground of economy, and the question of the finances of the school district, I think, would be material evidence.

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Mr. Vanderbilt: I agree with that, but he is now being asked what the depository of school moneys was.

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William H. Gilfert, for Respondent—Direct.

The Commissioner: Lets proceed until we see. I think, it is set up in the answer, something that would indicate the next question. How valuable that is, of course, is a matter to be weighed. You may answer the question.

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Q. What was the City's depository in June 1932? A. June, 1932, what particular money?

Q. All the City money including school money.
A. The Trust Company of New Jersey.

Q. Did you have an account in the Steneck Trust Company? A. At one time.

Q. June, 1932? A. The bank was closed in June, 1932.

Q. June, 1931? A. June, 1931, yes.

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Q. How much money did you have in the Steneck Trust Company?

Mr. Vanderbilt: I object to that as immaterial and irrelevant, what money they had in June, 1931, the year before this was done in some bank.

Mr. Greenberg: Of course, it is very essential to show the financial condition of the City, to show what happened to its money.

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Mr. Vanderbilt: I don't see how it has any bearing on it.

The Commissioner: The taxes of June are applicable to the school year. The taxes collected in June are applicable to the school year from July 1st to June 30th, 1932.

Mr. Vanderbilt: True.

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The Commissioner: Then, I think, it is relevant. I don't know the value of the evidence but I will admit it and you may

William H. Gilfert, for Respondent—Direct.

have your exception noted, if you would like it.

Question repeated.

A. As of June 27th, 1931, the Board of Education's payroll was \$31,904.65. The Board of Education's general account \$10,637.26, making a total of \$42,541.91. The City's general account— 10

Mr. Vanderbilt: I object to that, the City account isn't any part of the case.

The Commissioner: The City has to turn over to the Board of Education the money, the City is the collecting agency for the Board.

Mr. Vanderbilt: Exception please.

The Commissioner: And the Board requisitions from the City, the Board doesn't collect the taxes. 20

A. The City's general account \$751,073.84; sinking fund requirements \$466,000—

Mr. Vanderbilt: I don't want to be objecting all the time, but what possible bearing can the sinking fund have on this question.

The Commissioner: I think it is material.

Mr. Vanderbilt: The teachers can't dig into the sinking fund for salaries. 30

The Commissioner: It is showing the picture, the financial condition of the districts. There is nothing wrong with that testimony if it isn't too lengthy. We want the facts.

The Witness: Sinking fund, \$66,097.31, total for the City, \$1,217,171.15, making a grand total including school and City, of \$1,259,713.06. 40

William H. Gilfert, for Respondent—Direct.

Q. What happened to the Steneck Trust Company? A. The Steneck Trust Company closed its doors on the 27th day of June, 1931.

Q. By order of the Banking Commissioner? A. By order of the Commissioner of Banking of the State of New Jersey.

10 Q. Did the City of Hoboken have to its credit any moneys in any other bank? A. At that time they did.

Q. Where? A. The Trust Company of New Jersey.

Q. How much? A. Oh, I can't tell you how much was there.

Q. Approximately? A. At the time the bank was closed, do you mean?

20 Q. Yes. A. I can't tell you that. I don't know.

Q. As a result of the closing of the Steneck Trust Company, Mr. Gilfert, how was the financial condition of the City of Hoboken and its maintenance affected? A. Very much so.

30 Q. Will you recite to the Commissioner just how it affected the City of Hoboken and the schools financially? A. In order to pay the checks which had been drawn at that time, we had to get some more money, we issued checks of \$170,000 in redemption of City Hall bonds, also school teachers, money for the school teachers, and also interest on the bonded debts. In order to meet the amount that had been tied up by reason of the Steneck Trust Company closing, I had to borrow as Director of Revenue and Finance, the sum of \$450,000 on tax anticipation bonds which I borrowed from the Trust Company of New Jersey. Of that sum, \$225,000 was used for the purpose of paying teachers. That would include the last half, I think, of June and July and August of 40 1931, the balance of that money was used for City purposes.

William H. Gūlfert, for Respondent—Direct.

Q. How did you get money for the salaries of teachers of the City of Hoboken? A. Always by borrowing money on tax anticipation notes or on tax revenue notes.

Q. Were you compelled every salary day to borrow money? A. With the possible exception of one or two, and we were able to get sufficient money around October, 1931, by reason of making requests from the larger tax payers to pay their taxes in advance, and we gave them an allowance of 1% per month or 6% for one year. 10

Q. From that time on was it a question of borrowing every time the payroll came due? A. We had to borrow every payroll day, the 15th and the first.

Q. Where did you borrow this money? A. From various sources, the Trust Company of New Jersey, the Hudson Trust Company and the Hoboken Bank for Savings, and individuals. 20

Q. Did you encounter any difficulty in that respect? A. Very much.

Q. What was the difficulty? A. We had all we could do to get it, and very often.

Q. Why? A. Because we had outstanding at that time tax anticipation bonds and tax revenue notes to the extent of \$1,752,000. The bankers didn't want to go along with us, because of that amount which was outstanding. 30

Q. Did you have various conferences with bankers? A. We had any number of conferences which began about September 21, 1931. That first conference was held in the Trust Company of New Jersey. At that time there were present as representatives all holders, every one who held tax anticipation notes and tax revenue bonds of the City of Hoboken, which were outstanding.

Q. What was the result of that conference? A. That conference really didn't materialize into 40

William H. Gilfert, for Respondent—Direct.

anything. We left there without getting any promises from the bankers and we hoped we would meet within a short time again to reach some plan to take care of the notes which were outstanding, and at the same time take care of the City's needs for the balance of the year.

10 Q. When was your next conference, if any, with the bankers? A. Our next conference was held—our next conference as I remember it was held sometime around October, 1931, and that was held in the office of Messrs. Hawkins, Delafield and Longfellow, bond attorneys for the City of Hoboken.

Q. What was the purpose of that conference? A. The purpose of that conference was to arrange, if possible, a way of meeting by refinancing the outstanding anticipation bonds and tax revenue bonds.

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Q. Up to that point, Mr. Commissioner, were you having any difficulty in meeting the salaries of the employees of the Board of Education? A. We had difficulty every 15th and every 1st, as I told you before. We had so much difficulty on one occasion that we had to look to individuals to take revenue bonds or tax anticipation notes, whichever they were at that time.

30 Q. When was that? A. That was around September, 1931. I made private sales at that time to the amount of \$20,000 and as Water Commissioner, I bought \$40,000 of the tax anticipation bonds and also sold to the sinking fund commission \$50,000 of those tax anticipation bonds. At that time I needed \$470,000.

Q. Did you raise that \$470,000? A. I raised it in that way. I sold to the general account, which is the account the City conducts for 1930 \$60,000; the Hudson Trust Company took \$100,000; the Hoboken Bank for Savings took \$100,000 The

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William H. Gylfert, for Respondent—Direct.

Sinking Fund Commission took \$50,000; The Trust Company of New Jersey took \$100,000 and private sales \$20,000, so that made a total of \$470,000, which I needed not only for the needs of the City, but the schools as well.

Q. Including salaries? A. Yes, sir.

Q. Will you recite, Mr. Commissioner, as briefly as you can, what steps were taken after that to meet current obligations, as they matured? A. First of all in November, 1931, we conceived the idea of selling emergency notes which were to be sold against the deposit of approximately \$800,000, which was tied up in the Steneck Trust Company. In November of 1931, I don't remember the exact day, but we did sell \$200,000 of those Emergency bonds. The proceeds we used for the current needs of the City and the schools.

Q. Go on. A. We were still without sufficient money, so on December 10, 1931, the City of Hoboken advertised for sale \$1,975,000 worth of tax revenue bonds for which we received no bids. Continuing in that period of December, we still had meetings with the depositor's committee of the Steneck Trust Company, which of course, brought us nowhere, and at that period the City of Hoboken had outstanding in tax revenue and tax anticipation bonds, the sum of \$2,749,000. We just got a little breathing spell around this period, January 6th, and we received \$262,776.07 from State School moneys, but by that money we were enabled to pay the Board of Education's salaries for January, February and March of 1932. The City's salaries at that time were paid from tax collections. Then, about January 7, 1932, we sold an additional \$500,000 of the Emergency bonds, which as I said before were issued against the deposit which was with the Steneck Trust Company and with this \$550,000, we reduced our

William H. Gilfert, for Respondent—Direct.

outstanding obligations 30%. Do you want me to proceed?

Q. Just proceed.

The Commissioner: Isn't that enough of the picture?

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The Witness: There isn't much more to it, Mr. Commissioner. On April 7, 1932, I sold \$40,000 more of those Emergency Bonds.

Q. \$400,000? A. \$40,000 and \$460,000 tax revenue bonds. We used this sum to reduce those outstanding obligations by 20% and the bankers gave us as a result of this reduction, a breathing spell to June 30th, 1932.

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Q. Tell us your efforts in June, 1932? A. Just a moment, I have a few more I would like to give you. The City further borrowed \$175,000 on tax anticipation bonds and this together with the tax collections and also with the pre-payment of the 1932 taxes, upon which, of course, we allowed a discount, this enabled the City to meet for this particular period the requirements of the City and the schools. We were constantly getting calls from the representatives of those who held Hoboken paper, which was virtually overdue paper, so a conference was called in the office of Hawkins, Delafield and Longfellow at which all the bondholders' representatives were present. Would you like those names to be incorporated in the record?

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Q. What names? A. The names of those present representing the different interests.

Q. I don't think that is necessary. A. We had quite a conference that day. It started around one o'clock in the afternoon and lasted well into 6 o'clock and the bankers refused absolutely to give the City of Hoboken any more money, regard-

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William H. Gilfert, for Respondent—Direct.

less of what we offered them. We offered them 6% and we even went so far as to offer them virtually what would be 7%. That conference broke up and another conference was held about June 27th. Still we couldn't do anything. They insisted upon some reduction being made. We told them we didn't have anything to pay them at that time and we sought a further renewal for a period of 3 months, thinking possibly within the interim we would be able to get sufficient in the way of taxes to make either a 10 or 20% payment on the obligation, but we were unsuccessful, so we left the conference with absolutely nothing gained. They were going to put us into default. We realized just what that would mean to the City of Hoboken's credit. I came back and reported to the Board of Commissioners just what the situation was and just what the bankers demanded.

Q. What did they demand? A. The Board of Commissioners called into the conference which then took place, the President of the Board of Education, Mr. Laverty, and the Secretary of the Board of Education, Mr. Lewis, and put the situation before them. We had to make some reduction; we had to reduce our operating expenses in some way. The bankers felt that we should do it and in the conferences held in New York, Mr. Meisel, of the Hoboken Bank for Savings, as well as some of the other gentlemen felt that the best way we could reduce them would be to make some sort of a reduction in the schools, because he felt that the cost of education in Hoboken was unwarrantively high. We held the conference in the Mayor's office and it was decided that some saving would be made. After it was finally decided what saving would be made, the information was conveyed to the Board of Commissioners. I was

William H. Gilfert, for Respondent—Direct.

present at the conference and then I made another visit over to Mr. Miller, to the Bank of New York and Trust Company, and told him that the Board of Commissioners had decided to close two schools. I told him that would mean for this particular year, about a saving of \$100,000. Although he was
10 the Chairman of the Bondholders' Committee he was unable to give me any definite answer, but he sent up for a man who was in the same building, he represented one of the holders, I think, he has about \$275,000 of the bonds. He came down. He was acquainted with the nature of my proposition and still felt that since there was a committee of three, that it would only be right and proper for them to get in touch with this third gentleman. He was Mr. Collings, of Philadelphia, who
20 represented \$600,000 of those outstanding obligations. They didn't succeed in getting in touch with him, although they called Philadelphia several times, but finally in the afternoon around two o'clock they had succeeded. My proposition to them at that time was that we would give them a 10% reduction. I had succeeded in the collecting in taxes, a sum equal to \$125,000, which would pay at that time \$125,000 exclusive of the interest. They had a conference between themselves, this
30 gentleman who was in the building and Mr. Miller, the Vice-President of the New York Bank and Trust Company, and they finally told me they would renew the notes to September of this year if I paid 10%, as long as we were going to make the reduction that I proposed to him in our operating expenses.

Q. Are you through, Commissioner? A. Just one moment.

40 The Commissioner: I think that gives a picture of the financial situation.

William H. Gilfert, for Respondent—Cross.

A. And for the past couple of months, and up until November, my financial scheme comprehends of the borrowing of \$600,000 from the Trust Company of New Jersey. I think I borrowed so far in the neighborhood of \$375,000 and I have given him an agreement that that money must be paid out of the collection of taxes as of December 1st. 10

Q. Commissioner Gilfert, has the City ever received anything from the money it had on deposit in the Steneck Trust Company? A. It has not.

Q. It is still in the hands of the State Banking Commissioner? A. Yes, it is still in the hands of the State Commissioner of Banking and Insurance.

Q. And there has been no attempt at distribution on the part of the Steneck Trust Company? A. Not so far. 20

Mr. Greenberg: That is all.

Cross-examination by Mr. Vanderbilt:

Q. Commissioner, how long have you held your position? A. Since October of 1926.

Q. As a matter of fact, Hoboken, along with a great many other municipalities, had good times as well as bad times and was living on borrowed money, practically all year? A. Not all year. 30

Q. Tax anticipation notes and tax revenue notes were regular things in your monthly diet? A. That is true.

Q. So these dramatics that you relate of issuing tax anticipation notes and tax revenue bonds was nothing new, that came about with this depression? A. I think you misunderstand me, Mr. Vanderbilt. I spoke of the tax anticipation notes and the tax revenue bonds which were overdue. I am not talking about the regular ones. 40

William H. Gilfert, for Respondent—Cross.

Q. The City regularly has lived on borrowed money year in and year out like most municipalities? A. Yes, sir.

10 Q. And as a matter of fact you know, do you not, from your contact with the fiscal officers of other municipalities, and from your contact with State bodies like the League of Municipalities, that the plight of Hoboken was no different than the plight of Jersey City and the plight of Newark and practically every other municipality in the State of New Jersey?

Mr. Greenberg: I object to that question, it is absolutely immaterial what the plight of any other city was or any other community. Every city's problems are its own.

20 The Commissioner: Yes, I don't think it makes any difference what another place is doing, if Hoboken is in bad shape—

Mr. Vanderbilt: I think we have a right to show this is no isolated situation which Hoboken had to meet, but that every county in our State and perhaps in other States as well, is meeting it, and then we have a right to ask the witness whether they took steps to meet that, that other municipalities took and that other counties have taken.

30 The Commissioner: I can't see that.

Mr. Greenberg: If another municipality wants to indulge in this sort of practice continually that is their business and not ours.

The Commissioner: If one individual spends his money and is broke and the fact that some other individual did the same thing, can't help his case any.

40 Mr. Vanderbilt: It goes to the ways and means they took of meeting the situation.

William H. Gilfert, for Respondent—Cross.

The Commissioner: How about the bank closing.

Mr. Vanderbilt: That has happened in other cities.

The Commissioner: And they are hard pressed too.

Mr. Vanderbilt: Surely. 10

The Commissioner: But, whether they did the same things Hoboken does is not material.

Mr. Vanderbilt: It strikes me it is, but you are the judge.

The Commissioner: I respect your views, but I will deny the motion.

Mr. Vanderbilt: I must take my exception to your ruling.

The Commissioner: Yes, the objection is sustained. 20

Mr. Vanderbilt: May I have my exception?

Q. At any rate, as a result of these troubles which overtook Hoboken, if they didn't overtake other municipalities, you had numerous conferences with bankers and with Hawkins, Delafield and Longfellow who are the bond attorneys of the City of Hoboken, are they not? A. Yes, sir. 30

Q. And you got many suggestions from the bankers as to how you could rectify your position? A. We didn't get any suggestions, I mentioned one suggestion which was the school.

Q. Did they at any time, suggest you might get yourself in better shape by making a horizontal cut in all salaries? A. No, that has never been suggested.

Q. Have you ever heard that was done by the school teachers of Atlantic City, Camden, Pater- 40

William H. Gilfert, for Respondent—Cross.

son, Jersey City and the City of Newark, as applied to their general officials?

10 Mr. Greenberg: I object to that. The method adopted by other municipalities or communities are not binding on Hoboken no more than what we did is binding on them. Every community's problems are independent. The mere fact that I retrench in one way, that is not a criterion for the next man to use the same method.

20 The Commissioner: We are troubled here with the legal situation and not particularly with a normal situation, as a different view of a normal situation would be. The question here is strictly legal. Whether it might be better in one person's opinion to attack the problem one way or another way, doesn't attack the right of the municipality to attack it in an entirely different way.

30 Mr. Vanderbilt: They are pleading the sad plight of the City of Hoboken and I am asking the commissioner, if he knows how Camden, Atlantic City, Newark, Paterson and Hudson County met it and how the adjacent city of Jersey City met it, and probably a lot more that I haven't heard about, because this may go to some Judges who aren't as familiar as this commissioner is with what they have done.

The Commissioner: The record will show you have tried to get it in.

Mr. Greenberg: We maintain it is highly irrelevant.

Mr. Vanderbilt: And it is cross examination, Commissioner.

40 The Commissioner: Yes, but he didn't take up what other municipalities did on direct examination.

William H. Gilfert, for Respondent—Cross.

Mr. Vanderbilt: He has taken up his own municipality and now I have a right to go into the question of good faith and I am showing by illustrious examples all over the State one way that some sensible business men met their problem, by taking a little cream off the top of all the bottles, but we won't smash any of the bottles. 10

Mr. Greenberg: Mr. Vanderbilt doesn't contend that poor judgment is lack of good faith. Assuming his argument is true, what he says is poor judgment is not an indication of bad faith. That is all his questions intend to prove.

The Commissioner: I sustain the objection.

Mr. Vanderbilt: I don't want to argue— 20

The Commissioner: I don't mind your arguing.

Mr. Vanderbilt: The point is this, we are attacking the good faith of the Board of Education in doing exactly what they did; therefore, it seems to me that we should have a right to go into their motives. Obviously, one of the first things that occurs to a man who is spending more money than he can get in is, how can I reduce my expenditures, and when you see people all around you, the United States Steel Corporation and the Standard Oil Company reducing their salaries and when you see neighboring municipalities and neighboring Boards of Education reducing the salary of everybody a little bit, I think it goes to the question of good faith to ask whether or not this Board ever considered that proposition. 30
40

William H. Gilfert, for Respondent—Cross.

10 The Commissioner: I think, whether they did or not, isn't material. I think it is good argument that a Board might have done a thing this way and it might have been more equitable in certain instances to do it another way, and I am very broad on things of good faith or lack of good faith, but that is not material.

Mr. Vanderbilt: May I have my exception noted?

The Commissioner: Yes.

20 Q. May I ask this question, did the bankers ever suggest to you as the fiscal representative of the City of Hoboken and of its Board of Education, the reduction of salaries? A. No, they didn't Mr. Vanderbilt.

Q. Did the City Commission, of which you are a member ever consider that as a possible or likely means of improving the financial condition of the City?

Mr. Greenberg: I object to that as to what the City Commissioners of Hoboken did.

Mr. Vanderbilt: He is a member of it.

30 Mr. Greenberg: Under the State Law, the Board of Education is a body by itself. The Board of City Commissioners is an executive body and the Board of Education is as powerful as the Board of City Commissioners in its respective sphere. It is a body corporate and what the Board of City Commissioners did is not binding or not material to what the Board of Education did.

40 Mr. Vanderbilt: It can only spend what the City's fathers give them, they have the power of the purse string.

William H. Gilfert, for Respondent—Cross.

Mr. Greenberg: I don't think it is a bit material.

The Commissioner: No, I don't either. How many suggestions were made to the Board is not material. The Board acted on some procedure and they are bound by what they did and no matter if there were 30 suggestions before them, they elected one and if they elected within their legal rights, they are safe. 10

Mr. Vanderbilt: That depends on whether they acted in good faith and whether they acted in good faith depends on whether or not they considered the various possibilities of solving their problem and took the one everybody else here, there and everywhere else took to solve the problem, or whether they went out and got all of these school teachers who were being selected for the guillotine and put them all in the one bag and then led them all out the same day to the scaffold— 20

The Commissioners: Whether they can do that is another question, but they are a discretionary body and the action that is taken is within that body.

Mr. Vanderbilt: It is a legal question and the legal question involves the question of good faith and the question of good faith involves motives and it depends on what other people were doing to meet a similar problem and whether or not they took those obvious means of solving their problems. 30

The Commissioner: You have asked this man, who is not a member of the Board of Education, if certain suggestions were made to him and he said they were not. Suppose they might have been made, or if 40

William H. Gilfert, for Respondent—Cross.

they might have been made in Atlantic City, how would he as Commissioner of Revenue and Finance know about what Atlantic City did. It wouldn't make any difference, whether he did or not.

10 Mr. Vanderbilt: Did he know about all these municipalities in general? That is what I was trying to drive at, not one particular municipality.

The Commissioner: I understand that, but I don't see where that is material.

Mr. Vanderbilt: Then, I ask for an exception.

The Commissioner: Certainly.

20 Q. In your conferences with the President of the Board of Education and the Secretary of the Board of Education in which you told them the sad story of your conference with the Bankers and the Bondholders Committee and what had to be done to meet the situation, was the matter of giving each teacher, and every official of the Board of Education a cut in salary considered?

Mr. Greenberg: I object to that, as being absolutely immaterial.

30 Mr. Vanderbilt: He has told of the conferences and I should have a right to bring out what was discussed at these conferences.

Mr. Greenberg: Whether there was a cut or not, I don't think the law sanctifies that as the test of good faith. How one man runs his business is no test of how another man should run his business.

40 The Commissioner: I think, the question might be admissible on this ground, now, the question is, did they ask you this thing.

William H. Gilfert, for Respondent—Cross.

Mr. Greenberg: He can ask him 100 things negatively he could just go on, did they tell you to reduce this and did they tell you to reduce that, did they tell you to use less help or did they tell you to use less light. That is no test. The fact that they asked him to reduce salaries is one thing. This, as the Commissioner has said is a discretionary body. Even if they did this or that, what difference would it make. The question is, was this action of the Board of Education legal. 10

The Commissioner: I think, on the grounds you asked him what they suggested and he said they suggested reducing expenses, I think by reduction of employees and now he is asking whether they suggested anything else. The question might be proper on that ground on cross examination. 20

Mr. Greenberg: If he puts it broadly, did they suggest anything else, but just on the cut in salary, I don't think that is at all material.

(Question repeated.)

A. No.

Q. That was never mentioned at any time? A. 30

No.

Q. You were aware, were you not, Commissioner, that this system of a horizontal cut was being put in force in various municipalities in the State?

Mr. Greenberg: I object to that, on the same ground.

Mr. Vanderbilt: It is the question of his knowledge. I am cross-examining the witness. 40

William H. Gilfert, for Respondent—Cross.

10 Mr. Greenberg: What other communities were doing would not affect the City of Hoboken one bit. We are not concerned with what other municipalities are doing. I mean while other municipalities had to reduce their teachers' forces, the City of Hoboken kept their teachers' force and kept them on at a high salary. The City of Hoboken indulged these teachers for years. When other communities were keeping their cost down to a minimum, these teachers were carried along so they could earn their living. The City of Hoboken just kept carrying them until they couldn't carry them any longer. What difference would it make what other communities were doing? I don't think that is the test at all, what other communities were doing, provided our acts were legal.

20

The Commissioner: I think that is true.

Mr. Vanderbilt: If the Court pleases, I am cross-examining the witness, where a very considerable latitude is allowable, as I understand it.

The Commissioner: Yes, I grant you that.

30 Mr. Vanderbilt: And he says one thing was suggested—

The Commissioner: And he said nothing else was.

40 Mr. Vanderbilt: The closing of two schools, I am trying to bring out, whether or not it was natural, normal, reasonable and just that this was the solitary method by which the question of economy could be met in the school system of the City of Hoboken or whether ordinary reasonable

William H. Gilfert, for Respondent—Cross.

men, men not learned and trained men like the Commissioner is, but just ordinary dubs like myself, wouldn't have it occur to them immediately: "Well, Gosh, if Newark is doing it and Jersey City is doing it and the County of Hudson is doing it and all the rest of them, wouldn't that be a fine scheme to solve our problem, because right away we can lap off 10% of our cost." 10

The Commissioner: Yes, that is true, but the revenue and finance official had this suggestion.

Mr. Vanderbilt: He met with these others in conferences.

The Commissioner: Yes, he said that.

Mr. Vanderbilt: And he was being plagued by these bankers and bondholders and Hawkins-Delafield and Longfellow, they were on his back, jumping up his back and biting his ears and threatening them with bankruptcy, and I want to bring out, with that pressure, just putting him down, you could even see the bubbles coming up where he was going down for the third time, and yet it never occurred to him that they might cut salaries. After I get that in, I am going to ask you to draw some inferences from that as the Judge. I think I am entitled to it, especially on cross-examination. 20 30

The Commissioner: Ask him the question.

Mr. Vanderbilt: I don't think I could do it again. Will the stenographer read the question?

Question repeated. 40

William H. Gilfert, for Respondent—Cross.

Mr. Greenberg: I object to it on the ground it is immaterial.

The Commissioner: I think it is, but I will just make a little change and I've made it.

10 A. I didn't know it was being put into effect in the various municipalities. I didn't know whether it was at that particular time or not, but I did know of Jersey City and also Hudson County.

Q. Were other people let out of employment in Hoboken in this economy program other than the teachers involved in schools 4 and 7? A. Yes, there were 4 doctors. I think these 4 doctors in addition to the teachers and myself, I might state, was left out.

20 Mr. Greenberg: You were left out?

A. As Custodian of School moneys, I received \$1760 a year and that was cut out. The entire sum that I received as Custodian of School moneys, I lost as a result of that retrenchment.

30 Q. Was there any elimination or discharge of employees by the City of Hoboken proper as distinguished from the Board of Education? A. No, only Mr. Vanderbilt, in the event of any resignations or vacancy either by death or otherwise, those vacancies haven't been filled.

Q. There were no salary cuts by the City of Hoboken? A. Other than my own, that was the only one.

Q. You were the only victim? A. Yes.

Mr. Greenberg: There were 4 doctors?

The Witness: I told him about them.

40 Q. They were part time doctors? A. I don't know just what their duties were.

William H. Gilfert, for Respondent—Re-direct.

John F. Lewis, for Respondent—Direct.

Mr. Vanderbilt: That is all.

Re-direct examination by Mr. Greenberg:

Q. What was your salary as custodian of school money? A. \$1760 a year. 10

Q. You lost that completely? A. I lost that.

Q. Do you know how much was saved by these doctors that were let out? A. Well, no, I can't tell you. I don't remember what their salaries were.

Q. Do you know how much from your statement was saved by the teachers being let out? A. If you were to consider the two and myself, it was about \$100,000 for that period, up to the 1st of January and over the entire school year we would save in the neighborhood of \$200,000. 20

Q. As a practical effect, are you borrowing less money now than you did before these teachers were let out? Are you? A. Yes.

Mr. Greenberg: That is all.

Mr. Vanderbilt: That is all.

JOHN F. LEWIS, recalled by the Respondent. 30

Direct examination by Mr. Greenberg:

Q. You are secretary of the Hoboken Board of Education? A. I am, sir.

Q. How long have you been such secretary? A. Since September, 1917.

Mr. Lewis: Have you compiled the per capita costs of education for instruction of pupils in the elementary school up to the 7th grade? 40

John F. Lewis, for Respondent—Direct.

A. I think I have. Excuse me a minute. I have figured the per capita costs for teachers salaries.

Q. What was that? A. I have figures of the per capita costs of teacher's salaries.

Q. That is what I mean? A. Yes.

Q. What is it?

10

Mr. Vanderbilt: I object to that, as being immaterial and irrelevant.

Mr. Greenberg: I think that certainly goes to the good faith rather than the things Mr. Vanderbilt has spoken about. We maintain that our per capita cost for teacher's salaries was so high that we were justified—

20

Mr. Vanderbilt: Their per capita cost was so high that it never occurred to them to cut the teacher's salaries.

Mr. Greenberg: There must come a time when you have to reduce. There must be a beginning and this is the beginning. It is one of the defenses set up in our pleadings, that the per capita was so high that that was the reason we were instructed by the banking interests to reduce our costs.

The Commissioner: You may answer the question.

30

Mr. Vanderbilt: Exception please?

The Commissioner: Yes.

Q. Have you calculated or estimated the cost per capita of teacher's salaries for the year 1931-32? A. No, but it is for the year before that.

Q. Which year do you refer to? A. Yes, 1931-32, \$112.36.

Q. Have you the cost per capita for the year before that? A. \$112.12.

40

John F. Lewis, for Respondent—Direct.

Q. Have you it for the year before that? A.
\$110.68.

Q. Have you it for the year before that? A.
\$101.01.

Q. Do you know of your own knowledge how
Hoboken compares with the other municipalities
in the County of Hudson?

10

Mr. Vanderbilt: I object to that. If I
can't put in what they were doing in all
these other municipalities, I don't see
where they get off to even ask the question.

Mr. Greenberg: I am not putting in
what they cost.

Mr. Vanderbilt: I can't see how he can
suggest that he knows that, because I
couldn't bring out if this experienced fiscal
officer knew something that everybody
reads on the first page.

20

Mr. Greenberg: It seems to me where
we have raised 3 separate defenses, each
on the question of economy, that certainly
becomes very important and very essential
and certainly relevant to prove the cost of
government in Hoboken compared to other
municipalities, in the State. We say we
have a right by a comparison with other
communities to show we are the second
highest in the State and we are the highest
in Hudson County and that is why the
school authorities were told to reduce their
costs. Certainly, it becomes very important
to show you the cost of our school govern-
ment. How else could you show it was high
and it was a proper place for retrench-
ment?

30

The Commissioner: I think that is ad-
missible and I don't think it is comparable
with the other situation.

40

John F. Lewis, for Respondent—Direct.

10 Mr. Vanderbilt: I have the additional thought, that while this witness has testified before and is an experienced witness and doubtless competent to testify with respect to everything arising within the jurisdiction of the Board of Education of Hoboken, I don't think he is competent to tell what is being done in Newark, Camden and Atlantic City or Paterson.

The Commissioner: Simply by the published figures.

20 Mr. Vanderbilt: Or our per capita cost, it would be hearsay for him. I don't question any of the records of the State Department, I do say on the Commissioner's ruling they are irrelevant and not binding upon us. In other words, this is the logical inconsistency that we are here in. They say we want to show what the other municipalities are doing by way of spending money, but we don't want you to show what they are doing by way of saving money. Now, I say, what is good for the goose—

The Commissioner: There is a difference between a thing that is a fact and a thing that is a possible procedure.

30 Mr. Vanderbilt: They are both facts, Commissioner, the cuts in the salary in the other towns are facts and if you don't believe it, ask the other teachers.

The Commissioner: You got that question in eventually.

Mr. Vanderbilt: I don't think I did.

The Commissioner: Recall the witness, then and get it in.

40 Mr. Greenberg: I don't think they are comparable, the things he tried to show,

John F. Lewis, for Respondent—Direct.

even if he tried to prove them or if he did prove them it would not at all help the Commissioner in deciding this issue.

The Commissioner: I think it would be entirely proper for you to submit the record of the State Commissioner of Education setting forth the per capita cost. 10

Mr. Vanderbilt: I don't question that, only on the question of relevancy.

Q. Have you that? A. Here they are, for what years?

The Commissioner: I think that a district can say its per capita costs are high causes it to take an action. Now, what action it did take in the judgment of any individual, of course, must be considered within the discretion of the Board to take a different view. 20

Mr. Vanderbilt: So long as it acts in good faith.

The Commissioner: Yes.

Q. Using the bulletin, the official bulletin of the State Department of Education, Mr. Lewis, will you tell us how Hoboken stands first in Hudson County, if it gives that, and secondly, in the State of New Jersey, as to cost per pupil per capita for teachers' salaries. 30

Mr. Vanderbilt: Why not put the bulletin in, as to that so we can have all the facts there?

Q. Refer to it, as you read it.

Mr. Vanderbilt: Why not have that one page marked in evidence? 40

John F. Lewis, for Respondent—Direct.

A. This is the bulletin of April, 1932, page 769. It is grouped here in counties. Hoboken is high in the County.

Q. How much does it cost according to that bulletin? A. Well, for teachers' salaries in Hoboken, it is \$112.36.

10

Mr. Vanderbilt: Reading from the bulletin?

The Witness: This is from the bulletin. I can read it better from the typewriter.

Q. That is in Hudson County? A. Yes, that is in Hudson County.

Q. What is its relative standing as compared to other municipalities in the State of New Jersey? A. We are second in the State of New Jersey.

20

Q. Is that according to the bulletin of the State Department of Education? A. According to the bulletin, when you consider the cities that are comparable. Now, there are some rural communities that have a standing, but comparable districts, we are second highest in the State.

Q. Has that relative position, comparative position been true of the last number of years? A. I would say that has prevailed for 5 years.

30

Q. The last 5 years? A. The last 5 years, yes.

Mr. Vanderbilt: That is from the bulletins, too?

The Witness: Yes.

Mr. Greenberg: I offer that official bulletin, or that page in evidence.

The Commissioner: That may be admitted. Official bulletin of the State Board of Education marked Exhibit R-1.

40

Q. Have you got the one with the relative position in the State? A. You determine that by

John F. Lewis, for Respondent—Direct.

glancing through the book. That has it all in counties.

Mr. Greenberg: We will take in all these pages, Mr. Vanderbilt, so that we can get the State. It is table No. 7, beginning on page 765 and ending on page 774 of the Education Bulletin, Volume 18, No. 8, April, 1932, of the State of New Jersey, Department of Public Instruction in Trenton.

10

The Commissioner: It has been marked.

Q. Mr. Lewis, you are still Secretary of the Board? A. Yes, sir.

Q. And you were on June 29, 1932? A. Yes sir.

Q. Was there a meeting on June 29, 1932? A. There was so.

Q. Were you present and acted as Secretary? A. Yes, sir. 20

Q. Did you on that day keep the minutes? A. Yes, sir.

Q. Have you got the minutes of that meeting with you? A. I have.

Q. Will you produce them? A. Yes.

Q. Will you read your minutes of June 29, 1932? A. Yes, sir.

The witness proceeded to read these minutes of the meeting of June 29, 1932.

30

Mr. Greenberg: It is stipulated, as I understand it, we will submit a certified copy of all resolutions of the Board on that date pertaining to these appellants and also to any other action taken by the Board for these economy reasons.

Mr. Vanderbilt: Yes.

Q. Now, Mr. Lewis, are you the only man that keeps the minutes of the Board of Education? A. Yes, sir. 40

John F. Lewis, for Respondent—Direct.

Q. And you are familiar with all the resolutions passed by the Board of Education? A. Yes, sir.

10 Q. Has there ever been any resolution or official action on the part of the Board of Education that authorized the subject of any letters referred to in this case as Exhibits A, B, C, D and E on the part of the appellant.

Mr. Vanderbilt: Objected to as immaterial and irrelevant.

Mr. Greenberg: I haven't finished my question. Will you repeat the question?

Question repeated.

20 Mr. Vanderbilt: I object to that, as immaterial and irrelevant. These letters as it appears clearly were set on the letter heads of the Board of Education of the District of Hoboken, New Jersey, and bear the signature of the President in longhand and then his signature in typewriting followed by the words, "President of the Board of Education." The recipient is entitled to rely upon them.

30 The Commissioner: I think that is true and they are admitted in evidence. The only question is whether the respondent does not have a right to ask the question whether the Board took any action. I think that is a matter of fact and they may be bound by just as much as that, but the question is also proper, didn't the Board take the action.

40 Mr. Vanderbilt: If they are bound by them, the question of whether they took the action or not is irrelevant.

John F. Lewis, for Respondent—Direct.

The Commissioner: The letters were sent and admitted. Now, the question is did the Board direct them to be sent. That is also a fact. The whole thing is argument after that, as to the law.

Mr. Vanderbilt: As far as the recipients were concerned, they are binding as to these. 10

The Commissioner: That is your argument.

Mr. Vanderbilt: Our contention is, they weren't Valentines from an individual, they were an official message from an officer of the Board of Education of Hoboken.

The Commissioner: It is your argument that they didn't need to be authorized?

Mr. Vanderbilt: May I make this suggestion, which is undoubtedly known to the Commissioner, many Boards do many, many things which aren't covered by resolutions and which need be covered by resolutions. 20

The Commissioner: Yes, I suppose I do know that since you compliment me that way. That is the only way I can take it, just on the strength of a compliment.

Mr. Greenberg: Of course, we maintain that any principal has a right to show that an act on the part of its agent is not authorized. 30

The Commissioner: I think we want the facts on the record. The letter was sent, whether it was authorized by direct resolution or not, is a matter to be taken up later, but that question is permissible.

Mr. Vanderbilt: With my exception noted? 40

John F. Lewis, for Respondent—Direct.

The Commissioner: Yes.

A. No, sir.

Q. Has the Board of Education officially, or to your knowledge in any way authorized through you or any other way the sending of these letters?

10

Mr. Vanderbilt: I object to that.

Mr. Greenberg: You prompted that question.

Mr. Vanderbilt: That is going out of the scope of the other question.

Mr. Greenberg: You prompted the question.

The Commissioner: Read the question.

Question repeated.

20

The Commissioner: Answer it.

Mr. Greenberg: To your knowledge?

A. No, sir.

Q. Has the Board of Education through you or officially or anybody else to your knowledge ratified the sending of these letters by Mr. Laverty?

30

Mr. Vanderbilt: I object to that, for the same reason given on the other question; it is immaterial and irrelevant.

The Commissioner: It may be that is argument as to that point. He may answer it.

A. No, sir.

Q. To your knowledge, Mr. Lewis, has there been any vacancies filled in the Board of Education for the past 12 months? A. No, sir.

40

Q. Does it go back further than that, as to vacancies? A. There haven't been any appointments since September, 1930.

John F. Lewis, for Respondent—Cross.

Q. September, 1930? A. Yes.

Mr. Greenberg: Cross-examine.

Cross-examination by Mr. Vanderbilt:

Q. When you gave the statistics with reference to Hoboken and compared with comparable cities, what other cities did you have in mind? A. Well, I would take a city like Montclair, Bayonne, second class cities. 10

Q. Montclair is higher, is it not? A. Yes, sir.

Q. One of the best school systems in the State, isn't it?

The Commissioner: That calls for a conclusion.

Mr. Vanderbilt: I have a right to ask the question on cross-examination. 20

Mr. Greenberg: That is because it is in Essex County.

Mr. Vanderbilt: It is up on the hill, it is higher, it is the Athens of America, I am told.

The Commissioner: I don't think he can say that of his own knowledge.

Q. What other cities besides Montclair, which happens to be higher, did you compare Hoboken with? A. Well, I glanced through the whole schedule there and recognized cities that might be of the same size and compare to these of Hoboken, and then determined it. You begin with the amount there for Hoboken, and then you look through and see if you find anything higher than that particular figure, and then that would draw to my attention just what one it was. 30

Q. If you applied a 10% cut to the school teachers' salaries in Hoboken, where would Hoboken then stand on that scale? 40

John F. Lewis, for Respondent—Cross.

Mr. Greenberg: I object to that as being improper cross-examination of the Secretary of the Board.

Mr. Vanderbilt: It is a mathematical calculation. You can make it yourself.

10 Mr. Greenberg: The bulletins are in evidence.

Mr. Vanderbilt: He is the expert.

Mr. Greenberg: He is not an expert. He has read from a bulletin of the State Department of Education.

The Commissioner: If he knows he can say so, and if he doesn't know he can say so. Do you know what a 10% cut would do?

20 The Witness: No, sir, I don't.

Q. Was the question of a horizontal or any other kind of a cut in the salary of teachers and officers of the Board ever considered by the Board at any other sessions?

Mr. Greenberg: I object, he is merely in a clerical position. He is an administrative officer. He has nothing to do with the deliberations of the body except to take their actions down.

30 Mr. Vanderbilt: I ask if they deliberated about it; he is the Clerk, and he should know.

The Commissioner: To your knowledge.

The Witness: No, sir.

Mr. Greenberg: Do you mean by that answer that you know or that they didn't discuss it?

40 The Witness: He asked me whether they deliberated on it, and I said not to my knowledge.

John F. Lewis, for Respondent—Cross.

- Q. Do you attend the conferences of the Board?
 A. Not all of them.
 Q. Do you attend many of them? A. When I am invited in.
 Q. Are you generally invited in? A. Well, not always.
 Q. You do attend all of their public meetings? 10
 A. I do, yes, sir.
 Q. Have you or have you not at any of the public meetings heard them discuss the matter of cuts in salary?

Mr. Greenberg: I don't think that is material. I object to it as being irrelevant.

The Commissioner: Let him answer that question.

A. I do know that the Board of Education considered the teachers in Hoboken poorly paid. I do know, with the exception of Secaucus and Guttenberg, they have the lowest salary schedule in Hudson County. 20

- Q. And how do you account for the high cost?
 A. Few pupils.

The Commissioner: The number of pupils to teach.

Q. How long has Mr. Lavery been on the Board of Education? A. I would say Mr. Lavery has been on the Board for 20 years. 30

Q. How long has he been President? A. He was President when I became Secretary.

Q. And he has been President ever since? A. Yes, sir.

Q. Have you ever known any other occasion on which the Board of Education has sought to repudiate any action taken by Mr. Lavery over his official signature and on his official stationery? 40

John F. Lewis, for Respondent—Re-direct.

10 Mr. Greenberg: I object to the question, because it presupposes something that isn't true. We say he was not officially authorized, and it was not an official act of the Board. I am only counsel to the Board; I have to be instructed to do what I do.

The Commissioner: I think it is an improper question. It classes something as a repudiation, something it may not be.

Q. Have you ever known any other instance in all the years you have been Secretary of the Board and during which Mr. Laverty has been President of the Board—

20 The Commissioner: When he signed anything, as President, that he was not authorized to sign, that is a question.

Mr. Vanderbilt: That is a good question for the witness. Thank you, Commissioner.

A. No, sir, I don't.

Mr. Allen: What was the answer?

A. No, sir, I don't.

30 Mr. Vanderbilt: That is all.

Re-direct examination by Mr. Greenberg:

Q. Do you know, Mr. Lewis, how much of a saving was effected in the economy resolutions on June 29, 1932, the savings first as to teachers?

A. You mean as to the closing of these two schools?

40 Q. As to the closing of these two schools. A. The closing of No. 4 school, makes a saving of \$55,000.

John F. Lewis, for Respondent—Re-direct.

Q. For how long a period of time? A. That would be a year.

Q. A school year? A. Yes, sir, and the closing of No. 7 school meant a saving of \$48,480.

Q. Yes. A. That would mean \$103,480. By action of the Board at the same meeting they dispensed with the services of four medical inspectors and a school nurse which was an economy of \$13,300. 10

Q. Yes. A. And they also restored to the duties of class room teachers, certain vice principals and supervisors which effected an economy of \$2,450 and they took from Custodian William H. Gilfert, \$1,760, and that at the very same meeting we had notice of the approval of the retirement of 8 teachers, which took from the payroll \$22,780, so at that meeting we really economized to the extent of \$143,770. 20

Mr. Greenberg: That is all.

Re-cross-examination by Mr. Vanderbilt:

Q. What is the total teachers' payroll, the total payroll for the Board of Education, teachers and all others?

The Commissioner: For 1931-32?

Mr. Vanderbilt: For 1931-32, yes, Commissioner. 30

A. Prior to the 1st of July our payrolls amounted to about \$105,000 a month.

Q. A month? A. Yes, sir.

The Commissioner: That is on a 12 month basis?

The Witness: Yes. Now, it is about not \$91,000 a month. 40

John F. Lewis, for Respondent—Re-direct.

Q. That is for the year 1932-33? A. Yes, starting with July.

Mr. Vanderbilt: That is all.

Mr. Greenberg: That is all.

10 The Commissioner: We will adjourn now until next Monday morning at 10:15.

The hearing then adjourned.

STATE BOARD OF EDUCATION.

20	<p style="text-align: center;">ANGELINA KOCH DOWNS, <i>et al.</i>, Petitioners,</p> <p style="text-align: center;"><i>vs.</i></p> <p style="text-align: center;">BOARD OF EDUCATION OF THE DIS- TRICT OF HOBOKEN, NEW JERSEY, Respondent.</p>	}	Testimony.
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30 Transcript of testimony taken in the above entitled cause before Hon. CHARLES J. STRAHAN, a Deputy Commissioner of the Board of Education at Jersey City, New Jersey on Monday, October 3rd, 1932 at 10:15 A. M.

Appearances:

ARTHUR T. VANDERBILT, Esq., for the Petitioners.

JOSEPH GREENBERG, Esq., and HORACE T. ALLEN, Esq., for the Respondent.

Harry F. Shinn, for Respondent—Direct.

HARRY F. SHINN, sworn for the Respondent.

Direct examination by Mr. Greenberg:

Q. Mr. Shinn, what is your business with the City of Hoboken? A. City auditor.

Q. How long have you been the City auditor? A. 23 years. 10

Q. And you were City auditor in June of 1931? A. Yes, sir.

Q. And were you City auditor from that time on and for the time previous to June, 1931? A. I was.

Q. What was the City Depository in 1931, June? A. In the early part of June the Steneck Trust Company. 20

Q. Did anything occur to the Steneck Trust Company in June, 1931? A. It was taken over by the Commissioner of Banking on June 27, 1931.

Q. At the time it was taken over by the State Department of Banking, did the City of Hoboken have any funds on Deposit in the Steneck Trust Company? A. It did.

Q. Do you know how much? A. In all departments, practically \$1,000,000 and a quarter.

Q. Did they have any funds in any other institution at the time? A. Not for current expenses. 30

Q. What did this million and a quarter consist of? A. About \$751,000 of current expenses; \$452,000 sinking fund money and about \$42,000 of school money.

Q. Since the closing of the Steneck Trust Company, have you on behalf of the City negotiated in conjunction with the City Commissioner, with any bankers for loans? A. Yes, sir.

Q. Or for renewals of any paper of the City of Hoboken? A. Yes, sir. 40

Harry F. Shinn, for Respondent—Direct.

Q. Will you relate to the Commissioner what steps you took on behalf of the City of Hoboken and recite the dates, if you can? A. May I refer to some notes?

10 Mr. Vanderbilt: Isn't this all cumulative?
The Commissioner: It would appear to me to be so.

Mr. Greenberg: It is absolutely.

The Commissioner: If the original testimony is not refuted in any way, cumulative evidence isn't necessary, is it?

Mr. Allen: Except to show it is a matter of record.

20 Mr. Vanderbilt: Are all the figures the same as given by Commissioner Gilfert the other day?

Mr. Greenberg: I imagine they are exactly the same.

Mr. Vanderbilt: I don't see that we will get anywhere, Mr. Commissioner, by putting in cumulative testimony on figures which are a matter of record.

Mr. Greenberg: I will just direct his attention to one particular point.

The Commissioner: All right.

30 Mr. Greenberg: Mr. Allen suggests that if the matter is not refuted; of course, we will put it on the record that it is admitted and we won't put in any cumulative evidence.

Mr. Vanderbilt: I don't deny the truthfulness of the figures which the Director of Finance gave the other day.

40 Mr. Greenberg: It is not only a matter of figures, of course, it is a matter that we want to show through this witness, just what occurred.

Harry F. Shinn, for Respondent—Direct.

Mr. Vanderbilt: I am willing to stipulate that this auditor would testify to the same type of conferences with the New York bankers and with the local bankers of Hoboken and Hawkins, Delafield and Longfellow, but I am not admitting the relevancy of that any more than I did the other day. 10

Mr. Greenberg: That stipulation is broad enough.

Q. At any of these conferences were there any references made to the cost of school government?

A. Yes, sir.

Q. By whom and when? A. At the meeting of June 27th in Hawkins, Delafield and Longfellow's office, when we were trying to negotiate the renewal of notes due on the 30th of June. 20

Q. Will you relate what took place at the time? A. There was a meeting there of representatives of all the note holders. We met at Hawkins, Delafield and Longfellow's office and the session lasted practically 4 hours. The City was not in a position at that time to make the payments that the note holders requested. We had no funds available for that purpose. It was brought out by one of our local bankers, Mr. Meister, that the cost of schools was excessive and another banker, Mr. Collings of Philadelphia quoted us some figures on the cost of daily attendance of around \$150. He seemed to have secured some statistics on that point and that was the main point brought up. 30

Q. Was anything said with regard to the continued credit of the City of Hoboken? If something wasn't done with reference to the schools?

Mr. Vanderbilt: I object to that, as not binding upon the appellants in this case. 40

Harry F. Shinn, for Respondent—Direct.

What was said by some bankers or bond attorneys over in New York.

The Commissioner: It gives a picture of the financial situation of the District and I will admit it on that ground only.

10 Mr. Vanderbilt: It is what someone who doesn't live here, thinks about the situation. Certainly we are not bound by their thoughts. We weren't there, we weren't present when it was said and furthermore it is irrelevant.

The Commissioner: It has a bearing on the financial situation in the District and that is all it does have.

Mr. Vanderbilt: It has a bearing on what some persons thought about it.

20 The Commissioner: Did you borrow money from these people?

The Witness: These were holders of notes maturing on June 30th, and we were attempting to have them renewed.

The Commissioner: Will you repeat the question?

Question repeated.

30 The Commissioner: You may answer the question, and Mr. Vanderbilt may have his exception noted on the record.

Mr. Vanderbilt: Exception.

40 The Witness: The continued credit, or rather the credit of the City depended upon the renewal of these notes and as that was the only point brought up, it was as a matter of fact one of the conditions upon which they would agree to renew them, which they did afterwards agree to renew on the following day.

Harry F. Shinn, for Respondent—Cross.

Q. As a result of what the bankers said, did anything occur in the City of Hoboken with regard to the schools? A. On the 29th I was called and informed or requested to go to the bankers to tell them that it had been decided that two schools would be closed in the City of Hoboken with an estimated yearly saving of approximately \$200,000; a saving during the balance of this year of \$100,000. At the same time I had secured funds from the current collection to enable the City to pay 10% of the then holdings. We met, Commissioner Gilfert and myself, met with two members of the Committee and stated to them that we had secured funds for the payment of 10%. They asked us what additional things we had secured and we told them of the proposed action of the Board of Education which I recall was to be that night. They then said they would send telegrams to the holders of the notes recommending a renewal, which was done. 10 20

Q. Do you know how much of a saving in the taxes in the City of Hoboken is comprehended for next year? A. That I do not know.

Mr. Greenberg: That is all.

Cross-examination by Mr. Vanderbilt: 30

Q. At any of these conferences was the suggestion ever made that the City might be put in a sound financial condition by giving everybody a percentage of cut in his salary, both City employees and employees and officers of the Board of Education?

Mr. Greenberg: I object to that.

Mr. Vanderbilt: He has testified certain suggestions were made and I want to see 40

Harry F. Shinn, for Respondent—Cross.

on cross-examination if these other suggestions were made and if so what they were.

Mr. Greenberg: It wouldn't make any difference. This is a discretionary body.

10 The Commissioner: I think the question should be admitted. It may not have any value except to show the picture, whether the suggestions were made.

Mr. Greenberg: Allow me an exception.

The Commissioner: Yes, sir.

Question repeated. A. That question was suggested at one time by a gentleman. The answer to it—

20 Q. Who suggested it? A. I do not recall who it was. It was one of the holders, I would say. The answer to that was, that the City of Hoboken had not raised salaries from 1920 to 1930, that our police and firemen were on a low basis, with a maximum of \$2,250 and when that answer was made no further question was raised on that point.

Q. What was the cash position of the City of Hoboken as of July 1st, 1932? A. May I refer to a note?

Q. Yes. A. The current funds, \$142,243.89.

30 Q. Didn't Commissioner Gilfert make a report showing nearly \$1,000,000 cash balance as of July 1st? A. I believe he did, sir.

Q. Then, how do you account for this answer you gave of about \$100,000? A. Because the net balance, which I don't recall the figures, were included the funds in the tied up Steneck Trust Company, which was carried as extra cash on hand at the direction of the Department of the Municipal Accounts.

40 Q. The cash balance included the money in the Steneck Trust Company, you say? A. Right, sir.

John F. Lewis, for Respondent—Re-direct

Q. How long has the present Mayor held that position? A. I think, four or five years.

Q. He is familiar with the affairs of the City?

Mr. Greenberg: How would he know that?

Mr. Vanderbilt: He is an auditor, and he ought to get acquainted with the Mayor.

10

The Commissioner: I don't think he can answer the question.

Mr. Vanderbilt: I didn't get the answer to that question.

The Witness: The Commissioner answered it.

The Commissioner: I don't think he is competent to answer the question of how much the Mayor knew about the affairs of the City.

20

Mr. Vanderbilt: All right, that is all.

Mr. Greenberg: That is all. Just one minute, just for the purpose of the record, did the City ever receive any money from Steneck Trust Company since its closing?

The Witness: Not as yet, sir.

Mr. Greenberg: That is all.

Mr. Vanderbilt: That is all.

30

JOHN F. LEWIS, recalled by the respondent.

Re-direct examination by Mr. Greenberg:

Q. Mr. Lewis, do you know if there are more than 42 school teachers, if there were more than 42 school teachers on June 30th, 1932, who were either married, non-resident or both, in the City of Hoboken? A. There were.

40

John F. Lewis, for Respondent—Re-cross.

Q. How many were there, to your knowledge?
A. Approximately 100.

Mr. Greenberg: That is all.

Re-cross-examinatoin by Mr. Vanderbilt:

10 Q. How do you happen to know that there were 100 who were married, non-resident or both, as of the end of June, 1932, Mr. Lewis? A. From the addresses that they gave I would know what their residence was, and from the records on file as to whether they were married or not.

Q. You attended, did you not, the meeting of the Board of Education of April 18, 1932? A. Yes, sir.

20 Q. And you reported its proceedings? A. I did.

Q. Is this a certified copy of the minutes of the meeting of that date? A. Yes, sir. I certified to that.

Q. Certified by Mr. Lewis? A. Yes.

Mr. Vanderbilt: May I have it marked in evidence, in lieu of the original minutes?

Mr. Greenberg: Yes.

30 (Minutes of April 18th, 1932, marked Exhibit P-6.)

40 Q. The minutes recite: "President Laverty informed the Board of the result of a recent survey made of the Supervisory and Teaching forces of the schools. In this connection he submitted the following data: 'A number of Public School Supervisory and Teaching Staff do not live here. This Board two months ago directed attention to this truth. Each of the educator force was provided with a "query card.'" Order was given to

John F. Lewis, for Respondent—Re-cross.

disclose certain facts of school life. The factual data furnished has been analyzed and tabulated: 393 individuals are on the qualified supervisory teacher roster; 373 of them in youth were mentally trained in Hoboken schools; 95% of our educators are "home talent"—a proportion unequal elsewhere in New Jersey classes (Hoboken school children have a high rating in efficiency—it shall be maintained); 139 of the pedagogic force reside beyond the limits of Hoboken; 127 of these 139 totals—former residents—with few exceptions were born here; 18 married women teachers are numbered among the "non-residents"; 12 of the "non-resident" never lived here (5 appointed before 1914, 7 named in 1916-21). (The periods of activity; pre-war, war duration, post-war—created a teacher supply scarcity.) Every educator appointed since 1925 was—in youth—a pupil in Hoboken schools; \$389,000 of wage is annually removed from Hoboken by the 139 non-resident teachers. Communications mailed to the alleged "ethical" transgressors comprehend "four" groupings: Non-residents—"those who deserted the City of their birth"—"those who never lived in Hoboken," "married women teachers"—"non-residents"—also "resident." The State Public Instruction Law gives "tenure" to an established qualified teacher; 255 of the educational force are true loyal citizens; honest with their conscience; with deliberate intent participate in whatsoever confronts them in home life; take interest in civic affairs; complacently meet care, anxiety or prosperity which emergency may create; find happiness here; thrive in health, and are faithful to their cause—the child in the class room.'

"Consequent to the comments of this Board concerning the forsaking of the City of Hoboken by

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John F. Lewis, for Respondent—Re-cross.

Public School teachers, report is made of the return of eight teachers who have once again taken up genuine permanent home in this community. On motion a recess was taken." Is that an accurate transcript of what occurred at the meeting? A. That is a report submitted by Mr. Laverty. Mr. Laverty made that statement and submitted the copy of it to me, and I incorporated it in the minutes.

10 Q. And there were present at that time Messrs. Butler, Duffy, Hackett, Koenig, Zatta, Vice President Fitzsimon and President Laverty? A. Yes, sir.

Q. Was any action taken upon the report of President Laverty? A. No, sir.

20 Q. Was there any resolution or ordinance or other action of the Board taken at this time requiring teachers to maintain their residence in Hoboken? A. No.

Q. Has there ever been a resolution, ordinance or any other action of the Board requiring teachers to maintain their residence in Hoboken? A. Not during my service in the Board.

30 Q. That is what I mean. Has there ever been any action of the Board by resolution, ordinance or otherwise prohibiting or restricting, or in any way interfering with teachers getting married? A. No, there were resolutions adopted that made it necessary for teachers to report their marriage.

Q. Yes, but was there any resolution or any action taken by the Board stating that they frowned upon the teachers getting married? A. No.

Q. You say that there were a considerable number beyond the teachers whose cases are here concerned, who were non-resident or married or both? A. Yes.

40 Q. That developed as a result of the query cards which were sent out by the president of the

John F. Lewis, for Respondent—Re-cross.

Board, did it not? A. According to that Statement, the Statement of Mr. Lavery makes there, it is as a result of the query cards he sent out.

Q. Were those query cards sent out by him personally or by you? A. They were sent to the schools by Mr. Lavery.

Q. They were sent to the schools by Mr. Lavery, personally? A. Yes, sir. 10

Q. He attended to the delivering of them to the various schools? A. Mr. Lavery sent them in that way, yes.

Q. Who took them around to the various schools? A. I do not know.

Q. Do you know whether Mr. Lavery personally took them to one school after another? A. I don't know that, sir.

Q. Who attended to the printing of the query cards? A. I don't know that. 20

Q. Were they printed under your direction? A. No, sir.

Q. Were the cards prepared under your direction? A. No, sir.

Q. Did the superintendent of schools have anything to do with them? A. That I don't know.

Q. By the way, do you know whether the superintendent of schools has been on a vacation during the last week? I have been trying to get him all week. 30

Mr. Allen: Don't make a remark of that kind, Mr. Vanderbilt. He was down at the City Hall with me for two days, all day long.

Mr. Greenberg: They came to my office too, looking for Mr. Kealey. I have been in conference with him too in my office.

The Commissioner: Did you leave the subpoena at his home? 40

John F. Lewis, for Respondent—Re-cross.

Mr. Vanderbilt: That isn't good service, Commissioner.

The Commissioner: He might have accepted it.

10 Mr. Vanderbilt: I have had a couple of men two or three days trying to subpoena him and they haven't been able to locate him. There was a man in his office on Saturday and they said he was away.

Mr. Allen: If a remark of that kind is to go into the record, we should have the opportunity of replying to it.

The Commissioner: You mean the extra remark and not the question?

20 Mr. Allen: Mr. Vanderbilt's statements that he has been endeavoring for several days to serve Mr. Kealy and he has been absent. I could myself state he has been in the City Hall.

30 Mr. Greenberg: There was a young man from Mr. Vanderbilt's office in my office the day before this case come on, and he asked me where I could find Mr. Kealy and I told him where his office was and how to get there and everything and that was the first time they ever attempted to subpoena Dr. Kealy. He has been available and has been in the City and hasn't evaded any service at all.

Mr. Vanderbilt: Do you suppose, we could persuade him to come here during the day?

Mr. Greenberg: We have been in conference with him.

Mr. Vanderbilt: I am just trying to find out whether he is around or not.

40 The Commissioner: Since the remarks of both counsel are on record, we will let the record rest there.

John F. Lewis, for Respondent—Re-cross.

Q. Do you recall at the hearing last Thursday there was testimony, I think, you gave the testimony, to the effect that this was the only instance in which you could recall that the Board of Education had not ratified, Mr. Laverty's action? A. Yes.

Q. Was there anything done at this meeting of April 18, 1932, which was a repudiation of Mr. Laverty's action in getting this data with respect to non-resident and married teachers and so forth? 10

Mr. Greenberg: I object to the word repudiation; that pre-supposes that he was authorized and then we repudiated his act. I think, he ought to reframe his question for the purpose of the record.

Mr. Vanderbilt: I am asking first, if there was any repudiation of this proceeding which is incorporated in the official minutes. 20

Mr. Greenberg: There isn't any repudiation, as I said before, repudiation pre-supposes what was authorized and later repudiated the act. I don't believe it is a proper use of the word repudiation.

Mr. Vanderbilt: If the Commissioner pleases, the best proof of authorization is that they take the pains to set it forth at length in their minutes. 30

The Commissioner: It calls for a conclusion on the part of the witness whether it is repudiation or not; and, therefore, I think there is proper grounds for sustaining the objection.

Mr. Greenberg: And I object on the further ground that the record speaks for itself. What action the Board took with regard to anything Mr. Laverty did is a matter of record and the record speaks for itself. 40

John F. Lewis, for Respondent—Re-cross.

10 Q. Have there ever been any previous discussion among members of the Board as to this questionnaire, the results of which are incorporated in the minutes of April 18th? A. No, sir, there is only in the minutes of February 1st, where Mr. Lavery made somewhat of a similar mention about marriage, that is all.

Q. May I see that, Mr. Lewis? A. At the organization meeting that was.

20 Q. You are referring now to the speech or statement that Mr. Lavery made in again assuming the office of the President of the Board, in which he said, "a disturbing factor in school affairs is the 39 married women teachers. There are 123 unmarried young women on the certified Monitress List who seek teacher placement. I contend that proper mental and physical home responsibility impairs the teaching ability of the mercenary wife who persists in pursuing a pedagogical occupation. Most disloyal among those in our education field is the man or woman born in Hoboken, educated in its schools, with public funds, entrenched in a permanent teacher position, who deserts the City and removes to a suburban town. Such an individual existing on the wage provided by merchants and other taxpayers fail to contribute to maintain either business or property in this municipality", is that the part
30 you refer to? A. Yes.

Mr. Vanderbilt: I ask to have the certified copy of the minutes of February 1, 1932, marked in evidence.

Mr. Allen: Has that been corrected, it is January 1, 1933, as printed.

40 Mr. Vanderbilt: The meeting was held on February 1st, for the purpose of or-

John F. Lewis, for Respondent—Re-cross.

ganizing. I wish to have that marked in evidence.

Minutes of February 1, 1932 marked Exhibit P-7.

Q. In between these two meetings of January and April, was there any discussion at any of the conferences of the Board, as to the thought expressed by the President of the Board, as to married and non-resident teachers? A. No, sir. 10

Q. And in between the meeting of April 18, 1932 and the meeting of June 29 and June 30, 1932, was there any discussion as to what teachers were to be transferred from other schools to schools #4 and school #7? A. No, sir.

Q. Who picked the teachers for transfer from schools to schools 4 and 7? A. It is contained in the report of the superintendent of schools. He reported he had transferred certain teachers. That is embodied in the minutes. 20

Q. Can you tell us whether or not that was the result of a conference between the President of the Board and the Superintendent? A. I don't know whether that was the result of it, no, sir. The Superintendent has a right to transfer.

Q. How many married teachers were retained? A. I don't know, sir. 30

Q. Were there any non-resident married teachers retained? A. Yes, sir.

Q. Can you tell us who they were? A. No, I couldn't off-handed, but I would say that and feel sure it was right.

Q. Can you get us a list of the non-resident married teachers who were retained for this present school year? A. Yes, sir.

Mr. Vanderbilt: I desire to offer in evidence some of this matter which Mr. Lewis 40

John F. Lewis, for Respondent—Re-cross.

10 has prepared over the week-end. The first is the resolutions, a certified copy of the resolutions of September 7, 1911, covering the appointment of several of the teachers here involved, and then a schedule dated October 3, 1932, giving resolutions each separately numbered, for the appointment of thirty of the teachers. Does that cover the whole group?

Mr. Greenberg: I just want to know, Mr. Vanderbilt, due to the fact that this is cross-examination—

Mr. Vanderbilt: Is there any objection to this?

Mr. Greenberg: Except you make this record part of your case.

20 Mr. Vanderbilt: I make it part of our case.

Mr. Greenberg: This is our witness.

Mr. Vanderbilt: May I have it marked now while Mr. Lewis is here?

The Commissioner: It will be recorded as a part of Mr. Vanderbilt's case.

Data submitted by Mr. Lewis marked Exhibit P-8.

30 Q. Mr. Lewis, does that cover, those papers that you have just handed me and which have just been marked in evidence, the appointment of all the teachers here involved? A. They are the original resolutions of appointment of all the teachers.

Q. Have you been able to get the other data that we wanted as to school attendance? A. Yes, here it is.

40 Q. I think, this is all you were asked to prepare, wasn't it, Mr. Lewis? A. I think, you wanted the list of the last 50 who have been appointed to teaching position.

John F. Lewis, for Respondent—Re-cross.

Q. Have you got that? A. Yes.

Mr. Vanderbilt: May I offer this in evidence, as part of our case?

Paper entitled "Appointments—Teachers in Elementary Schools" marked Exhibit P-9.

Mr. Vanderbilt: That is all.

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Mr. Greenberg: That is all. That is the Respondent's case.

The Commissioner: Mr. Vanderbilt, do you want a 10 minute recess?

Mr. Vanderbilt: May we have a recess for about 10 minutes?

The Commissioner: We will recess until 11:15.

20

AFTER RECESS.

Mr. Vanderbilt: Commissioner, I think, we will rest also.

The Commissioner: Do you want to submit brief or argument? I would rather have the briefs with the Citation of authorities. Mr. Vanderbilt will submit a brief 10 days after the receipt of the copy of the transcript and you will have one week in which to answer it and then he will have five days to reply. I have some points here which I jotted down and I would like you gentlemen to cover them in your brief.

30

In Districts which have a diminution of pupils if it is shown that the number of pupils has decreased during the past several years and financial savings have been necessary, these are the questions: 1. May

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John F. Lewis, for Respondent—Re-cross.

10 a district reduce the number of teachers when there is shown a diminution of pupils, and other good cause? 2. May this be done regardless of any motive in relation to individuals or groups? 3. If reduction is permissible under these situations were the positions held by teachers transferred to school No. 4 and school No. 7 legally abolished? 4. Were the positions of married and non-resident teachers remaining in schools numbered 4 and 7 legally abolished? 5. Is there any law in reference to discrimination that would apply as between those resident single girls transferred from the buildings and those teachers remaining in the buildings? There may be other points that you have, which you can also cover in your brief.

20

Mr. Vanderbilt: They are the points in your mind that you would like to have in our briefs touch on?

The Commissioner: Yes.

The hearing then adjourned.

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40

Exhibit P-1.

BOARD OF EDUCATION
DISTRICT OF HOBOKEN, N. J.

WILLIAM A. KERR,
Secretary.

10

September 2nd, 1915.

Miss Ethel Sweatman.

Dear Madam:

At a special meeting of the Board of Education held on September 1st, you were appointed a teacher in the schools of this City, on probation, at an annual salary of Six hundred dollars; said appointment to take effect immediately. You will report at the office of the Superintendent on September 13th, at 8-30 A. M.

20

Respectfully,

W. A. KERR,
Secretary.

30

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Exhibit P-2.

BOARD OF EDUCATION
DISTRICT OF HOBOKEN, N. J.

10 JOHN F. LEWIS,
Secretary.

December sixteenth
1919

Miss Marie Connell,
1012 Garden Street,
Hoboken, N. J.

Dear Miss Connell:

20 At the Stated Session of the Board of Educa-
tion held last evening you were appointed a
teacher on probation in the Elementary Schools
at an annual salary of Nine Hundred Dollars,
effective as of December 1, 1919.

You will please report to the Superintendent
of Schools for assignment to duty.

Respectfully,

30 JOHN F. LEWIS,
Secretary.

Exhibit P-3.

BOARD OF EDUCATION

HOBOKEN, N. J.

OFFICE OF THE SECRETARY

JOHN F. LEWIS,
Secretary.

10

January sixth
1 9 2 5

Miss Velia Ascoine,
524 Jefferson Street,
Hoboken, N. J.

Dear Miss Ascone:

20

By resolution of the Board of Education, adopted at the Adjourned Stated Session of January 5th, 1925, you were appointed on probation as a Teacher in the Elementary Schools at the minimum salary of Twelve Hundred (\$1200.) Dollars per annum, payable in semi-monthly installments.

The appointment dates from January 5th, 1925. Kindly report to the Superintendent of Schools for assignment to duty.

30

Respectfully yours,

JOHN F. LEWIS,
Secretary.

40

Exhibit P-4.

BOARD OF EDUCATION

DISTRICT OF HOBOKEN, N. J.

JOHN F. LEWIS,
Secretary.

10

September seventeenth

1 9 1 9

Miss Rachel Driesen,
632 Garden Street,
Hoboken, N. J.

Dear Miss Driesen:

20

At the Stated Session of the Board of Education held Monday evening, September 15th, 1919, you were appointed a teacher on Probation in the Elementary Schools, at an annual salary of \$900, effective October 1, 1919.

Kindly report to Superintendent Demarest for assignment.

Respectfully,

30

JOHN F. LEWIS,
Secretary.

40

Exhibit P-5.

BOARD OF EDUCATION

DISTRICT OF HOBOKEN, N. J.

A. J. DEMAREST,
Superintendent.

10

February 17, 1916.

Miss Maud Evans,
900 Park Ave.,

Hoboken, N. J.

At a meeting of the Board of Education held on Feb. 16, the following resolution was adopted. "Resolved that Miss Maud Evans be and she is hereby appointed as a teacher in the Public Schools of this city, on probation, at an annual salary of \$600; said appointment to take effect immediately. You are hereby assigned to school No. 8.

20

Very truly yours,

A. J. DEMAREST,
Supt.

30

40

Exhibit P-6.

October 3rd, 1932.

THIS IS TO CERTIFY that the following is a true and complete copy of the minutes of a Stated Session of the Board of Education held April 18th, 1932.

10

BOARD OF EDUCATION

STATED SESSION

Minutes of a Stated Session of the Board of Education of the School District of Hoboken, N. J., held Monday evening, April 18, 1932, at 8 o'clock, in the Board Room, Public School No. 4.

Present—Messrs. Butler, Duffy, Hackett, Koenig, Zatta, Vice-President Fitzsimon and President Laverty.

20

Absent—Messrs. Druz and Gaynor.

Minutes of the Stated Session of March 21, 1932, were read. There being no errors or omissions, the minutes were approved and adopted by the following vote:

Ayes—Messrs. Butler, Duffy, Hackett, Koenig, Zatta, Vice-President Fitzsimon and President Laverty.

30

Nays—None.

Absent—Messrs. Druz and Gaynor.

Miss Hazel Smith, teacher in School No. 8, presented her resignation, effective April 15, 1932. On motion of Mr. Butler, seconded by Mr. Koenig, the resignation of Miss Smith was accepted by the following vote:

Ayes—Messrs. Butler, Duffy, Hackett, Koenig, Zatta, Vice-President Fitzsimon and President Laverty.

40

Nays—None.

Absent—Messrs. Druz and Gaynor.

Exhibit P-6.

Communication from the Hudson County Board of Elections, relative to the use of Public School No. 6 and the A. J. Demarest High School in connection with the 1932 Primary and General Elections was presented, read and on motion referred to the Business Manager with instructions to have the schools in readiness on the days mentioned in the communication. 10

Monthly financial report of the Secretary, setting forth the appropriations, receipts and disbursements in the several accounts, as well as the amount of contractual orders issued, was, on motion, referred to the Committee on Finance.

The Business Manager presented a report of the repairs ordered and executed in the several Public School Buildings for the month ending April 18, 1932. On motion of Mr. Butler, seconded by Mr. Duffy, the report of the Business Manager was received and his actions approved by the following vote: 20

Ayes—Messrs. Butler, Duffy, Hackett, Koenig, Zatta, Vice-President Fitzsimon and President Laverty.

Nays—None.

Absent—Messrs. Druz and Gaynor.

Monthly reports of Attendance, Attendance Officers, Tardiness and Children Discharged from School Registers for the Month of March, presented by the Superintendent of Schools, were read and on motion ordered filed. 30

President Laverty informed the Board of the result of a recent survey made of the Supervisory and Teaching forces of the schools. In this connection he submitted the following data:

A number of the Public School supervisory and Teaching Staff do not live here.

This Board two months ago directed attention to this truth. 40

Exhibit P-6.

Each of the educator force was provided with a "query card." Order was given to disclose certain facts of school life.

10 The factual data furnished has been analyzed and tabulated; 394 individuals are on the qualified supervisory teacher roster; 373 of them in youth were mentally trained in Hoboken schools; 95% of our educators are "home talent"—a proportion unequalled elsewhere in New Jersey; (Hoboken school children have a high rating in efficiency—it shall be maintained); 139 of the pedagogic force reside beyond the limits of Hoboken; 127 of these 139 total—former residents—with few exceptions were born here; 18 married women teachers are numbered among the "non-residents"; 12 of the "non-residents" never lived here—(5 appointed before 1914, 7 named in 1916-1921). (The periods of activity; pre-war, war duration, post-war—created a teacher supply scarcity.) Every educator appointed since 1925 was—in youth—a pupil in Hoboken schools; \$389,000 of wage is annually removed from Hoboken by the 139 non-resident teachers. Communications mailed to the alleged "ethical" transgressors comprehend "four" grouping: Non-residents—
 20 —"those who deserted the City of their birth"—
 30 "those who never lived in Hoboken," married women teachers — "non-residents" — also "resident." The State Public Instruction Law gives "tenure" to an established qualified teacher; 255 of the educational force are true loyal citizens; honest with their conscience; with deliberate intent participate in whatsoever confronts them in home life; take interest in civic affairs; complacently meet care, anxiety or prosperity which emergency may create; find happiness here; thrive in health, and are faithful to their cause—the
 40 child in the classroom.

Exhibit P-6.

Consequent to the comments of this Board concerning the forsaking of the City of Hoboken by Public School Teachers, report is made of the return of eight teachers who have once again taken up genuine permanent home in this community.

On motion a recess was taken. 10

ON RE-ASSEMBLING

Present—Messrs. Butler, Duffy, Hackett, Koenig, Zatta, Vice-President Fitzsimon and President Laverty.

Absent—Messrs. Druz and Gaynor.

The following resolutions were presented:

By Mr. Zatta:

Whereas, Salary Warrant 69082, issued to Anna M. Van Twisk on April 4, 1932, in the sum of \$98.18, has been lost and payment on same has been stopped at the Bank; and 20

Whereas, Every effort has been made to find same but without success; therefore be it

Resolved, That the Secretary is hereby authorized to issue a duplicate warrant to Anna M. Van Twisk, in the sum of \$98.18, in payment of salary for the last half of March, 1932.

On motion of Mr. Zatta, seconded by Mr. Hackett, the resolution was adopted by the following vote: 30

Ayes—Messrs. Butler, Duffy, Hackett, Koenig, Zatta, Vice-President Fitzsimon and President Laverty.

Nays—None.

Absent—Messrs. Druz and Gaynor.

By Mr. Zatta:

Resolved, That the payrolls for the month of April, 1932, be and the same are hereby approved, subject to deductions authorized by the Committee on School Government. 40

Exhibit P-7.

On motion of Mr. Zatta, seconded by Mr. Butler, the resolution was adopted by the following vote:

Ayes—Messrs. Butler, Duffy, Hackett, Koenig, Zatta, Vice-President Fitzsimon and President Laverty.

Nays—None.

- 10 There being no further business, on motion the Board adjourned.

JOHN F. LEWIS,
Secretary.

Exhibit P-7.

- 20 THIS IS TO CERTIFY that the following is a true and complete copy of the minutes of the Organization Meeting of the Board of Education—February 1st, 1932.

BOARD OF EDUCATION

ORGANIZATION MEETING

- 30 Minutes of the meeting of the Board of Education of the School District of Hoboken, N. J., held Monday afternoon, February 1, 1932, at 4 o'clock, in the Board Room, Public School No. 4, in pursuance of the State Law, for the purpose of organizing for the year ending January 31, 1933.
- The Secretary called the meeting to order.
- The following communication from His Honor, Mayor B. N. McFeely, was read:

Exhibit P-7.

January 15, 1932.

MR. JOHN F. LEWIS,
Secretary, Board of Education,
Hoboken, N. J.

Dear Sir:

By authority vested in me as Mayor of the City of Hoboken, N. J., in pursuance of Chapter 221 of the P. L. 1911, and in conformity with the State School Law of New Jersey, I have this day appointed Messrs. Moris Druz, John J. Gaynor and J. Henry Koenig as members of the Board of Education, each for a full term of three years ending January 31, 1935. 10

Certificates have been issued to each of the above named gentlemen and they will qualify before Mr. Arthur C. Malone, City Clerk. 20

Kindly call a meeting of the Board of Education to be held Monday, February 1, 1932, at 4 o'clock p. m., for the purpose of organization for the year 1932.

Very sincerely yours,

(Signed) B. N. McFEELY,
Mayor.

The following certificate from Mr. Arthur C. Malone, City Clerk, was read: 30

January 28, 1932.

MR. JOHN F. LEWIS,
Secretary, Board of Education,
City of Hoboken, N. J.

His Honor, Mayor McFeely, having appointed Messrs. Moris Druz, John J. Gaynor and J. Henry Koenig as members of the Board of Education for the School District of Hoboken, for the full term of three years ending January 31, 1935; 40

Exhibit P-7.

THIS IS TO CERTIFY that the aforesaid Moris Druz, John J. Gaynor and J. Henry Koenig have presented to me their certificates of appointment and have duly qualified as such members of the said Board of Education in the manner required by law.

10

Respectfully submitted,

(Signed) ARTHUR C. MALONE,
City Clerk.

The roll was then called and the following were Present—Messrs. Butler, Druz, Duffy, Fitzsimon, Gaynor, Hackett, Koenig, Laverty and Zatta.

Absent—None.

20

The first order of business was the election of a President. The Secretary called for nominations.

Mr. Gaynor placed Mr. Laverty in nomination. The nomination was seconded by Mr. Koenig. There being no further nominations, the Ayes and Nays were called for and Mr. Laverty was unanimously elected President for another term.

30

In taking his position as President of the Board, Mr. Laverty said: "I thank you for again honoring me. A bewildering situation exists in educational circles. 'Hard times,' business prostration, financial stringency, immigration shortage and birth decline seemingly combine to produce a decreased enrollment of children in the elementary branch with an increase in the secondary schools of Hoboken. The registration shows a net loss of 178 pupils since last year.

40

"Corporate municipalities face intricate economic problems which call for deeper thought in financing. The Board of Education and Mayor McFeely, as a member of the Board of School Estimate, carefully analyzed each item in the budget prepared for Hoboken public instruction. A

Exhibit P-7.

substantial money saving is effected by retrenchment in repair and supply projects, personnel of teachers and other employees.

“In the conservative outlay of money for school purposes the Board may depend upon the continued co-operation of the Secretary and Business Manager.

“By equalizing the number of children in each class unit, and with an efficient course of study prescribed by State authority, necessity is removed for appointing new teachers to replace vacancies caused by resignation, death or retirement. 10

“We should fervently commend the benevolent generosity of the school employees of the city who have donated to the fund for the relief of persons in distress, \$12,500, of which \$11,000 came from the teacher force. 20

“A disturbing factor in school affairs is the 39 married women teachers. There are 123 unmarried young women on the certified Monitress List who seek teacher placement. I contend that proper mental and physical home responsibility impairs the teaching ability of the mercenary wife who persists in pursuing a pedagogical occupation.

“Most disloyal among those in our educational field is the man or woman born in Hoboken, educated in its school with public funds, entrenched in a permanent teacher position, who deserts the city and removes to a suburban town. Such an individual existing on the wage provided by merchants and other taxpayers fail to contribute to maintain either business or property in this municipality.” 30

The next order of business was the election of a Vice-President. Mr. Zatta nominated Mr. Fitzsimon. The nomination was seconded by Mr. Duffy. There being no further nominations, the 40

Exhibit P-7.

Ayes and Nays were called for and Mr. Fitzsimon was elected Vice President. Mr. Fitzsimon thanked the members for their continued good will and confidence so fittingly conveyed by his re-election to the office of Vice President.

10 President Laverty announced the following Standing Committees:

SCHOOL GOVERNMENT.

C. F. Fitzsimon, chairman; J. F. Zatta, S. F. Hackett, R. J. Butler.

INDUSTRIAL EDUCATION.

J. J. Gaynor, chairman; J. H. Koenig, M. Druz, and W. J. Duffy.

20

FINANCE.

J. F. Zatta, chairman; M. Druz, W. J. Duffy, S. D. Hackett.

SUPPLIES.

J. H. Koenig, chairman; S. F. Hackett, R. F. Butler, J. J. Gaynor.

30

REPAIRS.

R. J. Butler, chairman; J. H. Koenig, J. F. Zatta, C. F. Fitzsimon.

ENTERTAINMENT.

M. Druz, chairman; R. J. Butler, J. H. Koenig, J. J. Gaynor.

MEDICAL INSPECTION.

40

W. J. Duffy, chairman; C. F. Fitzsimon, J. J. Gaynor, M. Druz.

Exhibit P-7.

CONTINUATION SCHOOL.

S. F. Hackett, chairman; W. J. Duffy, J. F. Zatta, J. J. Gaynor.

The City Clerk, Mr. Arthur C. Malone, certified to the Board that Mayor B. N. McFeely and Commissioners Joseph A. Clark and William H. Giffert had been designated and appointed by the Board of City Commissioners as members of the Board of School Estimate. On motion duly made and seconded, the communication from the City Clerk was ordered filed. 10

The City Clerk also provided the Board with a certified copy of a resolution adopted by the Board of City Commissioners whereby the sum of \$1,084,637.45, appropriated by the Board of School Estimate for the maintenance, support and management of the Public Schools had been included in the tax ordinance. On motion duly made and seconded, the copy of the resolution was referred to the Committee on Finance. 20

The following resolution was presented:

By Mr. Koenig:

Resolved, That Moris Druz and John F. Zatta be and they are hereby designated and appointed members of the Board of School Estimate in and for the City of Hoboken.

On motion of Mr. Koenig, seconded by Mr. Hackett, the resolution was adopted by the following vote: 30

Ayes—Messrs. Butler, Druz, Duffy, Gaynor, Hackett, Koenig, Zatta, Vice-President Fitzsimon and President Laverty.

Nays—None.

Absent—None.

There being no further business, on motion the Board adjourned. 40

JOHN F. LEWIS,
Secretary.

Exhibit P-9.

APPOINTMENTS—TEACHERS IN ELEMENTARY
SCHOOLS

Walsh, Grace.....	Sept.	4th,	1930	
Marotta, Albina.....	"	4th,	1930	
Larsen, Helen.....	"	"	"	10
DePalma, Teresa.....	"	"	"	
Bailey, Lavina.....	"	1st	1929	
Repetto, Madeline.....	"	"	"	
Purcell, Mary.....	"	"	"	
Wilson, Helen.....	Nov.	15th,	1928	
Swenson, Florence.....	"	"	"	
Schultz, Emilie.....	"	"	"	—Now in H. S.
Dooley, Alice.....	"	"	"	
Crane, Edna.....	"	"	"	
Bonin, Stella.....	"	"	"	20
Franke, Alice.....	"	"	"	
Pistor, Hattie.....	"	"	"	—Resigned
Hetty, Schultz.....	"	"	"	
Moriarty, Ruth K.....	"	"	"	
Puvogel, Ethel.....	Sept.	1st,	1927—Resigned	
Murray, Rita.....	"	"	"	
Pindar, Hazel.....	"	"	"	—Resigned
Sexton, Alice.....	"	"	"	
Foley, Theresa.....	"	"	"	
Cuddihy, Mary.....	"	"	"	
Hayes, George.....	Apr.	16th,	1926	30
Bach, Gertrude.....	"	"	"	—Resigned
Marino, Ruth.....	"	"	"	
Crawford, Helen.....	"	"	"	
Schuster, Frieda.....	"	"	"	
Fallon, Kathryn.....	May	15th,	1925—now Crip. Cl.	
Bobbe, Lillian.....	"	"	"	
Behnke, Johanna.....	"	"	"	—Resigned
Foley, Marie.....	"	"	"	
Malone, Vera.....	"	"	"	—now Drawing.
Fugazzi, Kathryn.....	"	"	"	—now Jr. High 40

Exhibit P-9.

	Quinn, Mary.....	Feb.	16th,	1925	
	Walsh, Florence.....	"	"	"	
	Focht, Grace.....	"	"	"	—Resigned
	Hunter, Edna.....	"	"	"	
	Roberts, Edna.....	"	"	"	
	Bohnert, Agnes.....	Jan.	5th,	1925	
10	Ascione, Velia.....	"	"	"	
	Berkowitz, Ethel.....	Nov.	1st,	1924	
	Branner, Margie.....	"	"	"	—Resigned
	Rauch, Marion.....	"	"	"	
	Alberts, Emily K.....	June	16th,	1924	
	O'Neill, Helen.....	"	"	"	
	Malone, Margaret.....	"	"	"	
	Pindar, Helen.....	"	"	"	
	Fitzgibbons, Margaret...	"	"	"	
	Tomasini, Anna.....	Mar.	15th,	1924	
20	Brennan, Helen.....	"	"	"	
	Coughlin, Grace.....	Oct.	15th,	1923	
	Yankers, Blance.....	"	"	"	—Not in service.
	Scheinman, Paula.....	June	15th,	1923	
	Addesso, Alvinia.....	"	"	"	—Resigned
	Gaiimo, Sadie.....	"	"	"	
	Kilduff, Mae.....	June	1st,	1923	
	Loewinger, Johanna.....	"	"	"	
	Gonzales, Calure.....	May	15th,	1923	
	Dohn, Rita	"	"	"	—Resigned
	Alexander, Eleanor.....	May	1st.	1923—now Jr. High	
30	Kuharsli, Antoinette.....	"	"	"	—Resigned
	Wintermute, Mildred.....	Mar.	15th,	1923	
	Hayes, Catherine.....	Feb.	15th,	1923	
	Bracken, Adelaide.....	"	"	"	

Exhibit P-9.

BOARD OF EDUCATION

HOBOKEN, N. J.

Office of the Secretary

JOHN F. LEWIS,
Secretary.

October 3rd, 1932 10

Resolution (Original) of Appointment of

<i>Number</i>		<i>Number</i>		
1	ALLEN, Beatrice	18	HULTS, Violet	
2	ASCIONE, Velia	4	JOHNSTON, Margaret M.	
3	BARRETT, Florence	19	KING, Clara W.	
4	BECK, Anna M	20	KOCH, Angelina	
5	BERKOWITZ, Ethel	21	KOVALEWSKI, Madeline	20
6	BONNARD, Elizabeth	19	LOEHMER, Hilda	
7	BRYAN, Viola	22	OLDRIN, Arline	
8	CONNELL, Marie	23	PAWLIK, Martha	
9	CRANE, Edna F.	24	RUMOHR, Anna M.	
10	DRIESEN, Rai	25	SCHEINMAN, Paula	
11	EVANS, Maud P.	26	SEYD, Freda E.	
12	FITZGIBBONS, Margaret	27	SCHLANK, Lottie	30
13	GALLAGHER, Hazel M.	28	SMITH, Ada	
14	GIAIMO, Sadie	21	SOUTHARD, Helen	
15	GINSBERG, Anna	29	SWEATMAN, Ethel M.	
16	GIUSTO, Maud (Madeline E.)	19	TURPIN, Camille	
17	GRIFFIN, John J. (2)	30	WINTERMUTE, Mildred	

Exhibit P-9.

RESOLVED, That the Misses Sara J. Hiney and Beatrice Allen be and they are hereby appointed as teachers in the Elementary Schools, on probation, at the minimum salary of Twelve Hundred (\$1200.) Dollars per annum, payable in semi-monthly installments and to be increased in accordance with the salary schedule governing such teachers. These appointments shall be effective as of this date.

(Signed)

C. F. FITZSIMON

(Reverse side of page) #346

Resolution appointing the Misses Sarah Hiney and Beatrice Allen as teachers in the Elementary Schools.

October 18th, 1920.

Presented, read and adopted.

JOHN F. LEWIS (Signed)
Secretary.

RESOLVED, That Velia Ascione, Agnes Bohnert, Sarah Wildebush and Catherine Speer be and hereby are appointed on probation as Teachers in the Elementary Schools at the minimum salary of Twelve Hundred Dollars (\$1200.) per annum, payable in semi-monthly installments, and to be increased in accordance with the provisions of the General Salary Schedule until the maximum is reached. This resolution shall be effective as of this date—January 5th, 1925.

40

W. J. DUFFY (Signed)

Exhibit P-9.

(Reverse side of this page.) #749

Resolution:

Appointing

Velia Ascione

Agnes Bohmert

Sarah Wildebush

Catherine Speer

10

as Teachers in the Elementary Schools.

January 5th, 1925

Presented, read and adopted.

JOHN F. LEWIS (Signed)
Secretary.

20

RESOLVED, That Agnes Rowe and Florence L. Barrett be and hereby are appointed as Teachers on probation, in the Elementary Schools at the minimum salary of Twelve Hundred (\$1200.) Dollars, payable in semi-monthly installments, and to be increased annually in accordance with the salary schedule governing Teachers in the Elementary Schools until the maximum is reached. These appointments shall be effective September 26th, 1921.

C. F. FITZSIMON (Signed)

30

(Reverse side of this page.) #443

Resolution appointing Agnes Rowe and Florence Barrett to the Elementary Schools.

September 26th, 1921

Presented, read and adopted.

JOHN F. LEWIS (Signed)
Secretary.

40

Exhibit P-9.

BOARD OF EDUCATION

Park Avenue near 6th Street

ADOLPH LANKERING, Mayor

(ex officio)

10

MEMBERS

Richard Butler
 Richard Carrara
 Cornelius Ford
 Daniel A. Haggerty

MEMBERS

George Lankering
 John J. O'Neill
 Herman H. Pruser
 George C. Tompkins

Hoboken, N. J., October 16th, 1905

20

Resolved:—that the Misses A. Beck, A. Arata, L. Pindar, J. Scott, M. Downey, M. Johnston and E. Aitcheson be and they are hereby appointed as teachers on probation, in the Public schools of this city, at an annual salary of said appointments to take effect immediately.

GEO. LANKERING (Signed)

GEO. C. TOMPKINS (Signed)

A. G. STURSBURG (Signed)

(Reverse side of this page.)

30

Appointment of teachers on probation.

October 16th, 1905.

RESOLVED:—that the Misses E. Keister, Elizabeth Bonnard and Florence Rogers be and they are hereby appointed as teachers on probation, in the elementary schools of this City, at an annual salary of Six hundred (\$600) per annum; said appointments to take effect October 1st, 1912.

40

RICHARD MOONEY (Signed)

Exhibit P-9.

(Reverse side of this page.)

Appointment of the Misses E. Keister, E. Bonnard and F. Rogers on probation to take effect October 1st, 1912.

RESOLVED, That Miss Viola Bryan be and she is hereby appointed a teacher on probation in the elementary schools of this city, at an annual salary of Nine hundred dollars, payable semi-monthly; said appointment to take effect February 1st, 1919. 10

PHILLIP STEPHAN (Signed)

(Reverse side of this page) #143

Resolution: 20

Appointment of Viola Bryan as Teacher in Elementary Schools.

January 20th, 1919.

Presented, read and adopted.

JOHN F. LEWIS (Signed)
Secretary.

30

40

Exhibit P-9.

RESOLVED, That Miss Marie Kerns, Miss Margaret Carmody and Miss Marie Connell, be and they hereby are appointed teachers on probation in the Elementary School at the minimum salary of Nine Hundred (\$900.00) Dollars per annum, payable in semi-monthly installments, and to be increased according to schedule until the maximum is reached. Said appointments to be effective as of December 1st, 1919.

C. F. FITZSIMON (Signed)

(Reverse side of this page) #263

Resolution appointing Misses Marie Kern and Marie Connell as teachers on probation in Elementary Schools also Margaret Carmody.

December 15th, 1919.

Presented, read and adopted.

JOHN F. LEWIS (Signed)
Secretary.

RESOLVED, That Ruth Moriarty, Hetty Shultz, Hattie Pistor, Alice Franke, Marjorie Bates, Alice Podesta, Stella Bonin, Edna Crane, Alice Dooley, Emilie Schultz, Florence Swenson and Helen Wilson, be and hereby are appointed on probation as Teachers in the Elementary Schools, with compensation at the rate of \$1200. per annum, payable in semi-monthly installments, subject to the provisions of the General Salary Schedule pertaining to teachers in the Elementary Schools. These appointments shall date from November 15th, 1928.

MICHAEL F. KEARMS (Signed)
JOHN F. ZATTA (Signed)

Exhibit P-9.

(Reverse side of this page) #973

Resolution:

Appointment of Ruth Moriarty, Hetty Shultz, Hattie Pistor, Alice Franke, Marjorie Bates, Alice Podesta, Stella Bonin, Edna Crane, Alice Dooley, Emilie Schultz, Florence Swenson and Helen Wilson as Teachers in the Elementary Schools. 10

November 19th, 1928.

Presented, read and adopted.

JOHN F. LEWIS (Signed)
Secretary.

RESOLVED, That Miss Elsbeth Deitering, and Miss Adele Bottini and Miss Rachel Driesen be and they are hereby appointed teachers on probation in the elementary schools of this city at an annual salary of nine hundred dollars, payable semi-monthly; said appointments to take effect October 1st, 1919. 20

C. F. FITZSIMON (Signed)

(Reverse side of this page.) #229 30

Resolution appointing Miss E. Deitering, Miss A. Bottini and Miss R. Driesen as teachers on probation in the Elementary Schools.

September 15, 1919.

Presented, read and adopted.

JOHN F. LEWIS (Signed)
Secretary. 40

Exhibit P-9.

RESOLVED:—that the Misses Marjorie Livingston, Maud Evans, Agnes Crosby, A. R. Coughlin and Rose Rath, be and they are hereby appointed as teachers in the public schools of Hoboken, N. J., on probation, at the annual salary of Six hundred dollars; said appointment to take effect imme-

10

diately.

J. O'ROURKE (Signed)

(Reverse side of this page.)

Appointment of five teachers on probation, at \$600., per annum.

20

February 16-1916.

RESOLVED, That Margaret FitzGibbons, Helen Pindar, Margaret Malone, Helen O'Neill and Emily K. Alberts be and hereby are appointed as Teachers in the Elementary Schools, on probation, at the minimum salary of Twelve Hundred (\$1200.) Dollars per annum, payable in semi-monthly installments, subject to and conforming with the provisions of the General Salary Schedule until the maximum is reached. These appointments shall date from June 16th, 1924.

30

J. P. LAVERTY (Signed)

40

Exhibit P-9.

(Reverse side of this page.) #695

Resolution:

Appointing

Margaret FitzGibbons

Helen Pindar

Margaret Malone

Helen O'Neill

Emily K. Alberts

10

June 16th, 1924.

Presented, read and adopted.

JOHN F. LEWIS (Signed)
Secretary.

20

Resolved That *Miss Frances Stuart* and *Miss Hazel Gallagher* be and they are hereby appointed as teachers on probation in the public Schools of this city, at a salary of six hundred dollars per anum, payable in twelve equal monthly payments; said appointments to take effect April 15th, 1913.

RICHARD MOONEY (Signed)

JULIUS ? (Signed)

RICHARD A. MARVELL (Signed)

30

(Reverse side of this page)

Appointment of Miss Frances Stuart and Miss Hazel Gallagher, on probation, to effect April 15, 1913.

RESOLVED, That Sadie Giaimo and Alvina Adesse be and hereby are appointed as Teachers in the Elementary Schools, on probation, at the minimum salary of Twelve Hundred (\$1200.) Dol-

40

Exhibit P-9.

lars per annum, payable in semi-monthly installments, and to be increased in accordance with the provisions of the General Salary Schedule until the maximum salary for Teacher in the Elementary Schools is reached. This resolution shall be effective as of June 15th, 1923.

10

C. F. FITZSIMON (Signed)

(Reverse side of this page.) #624

Resolution:

Appointing Sadie Giaimo and Alvina Adesso as Teachers in the Elementary Schools.

June 18th, 1923.

20

Presented, read and adopted.

JOHN F. LEWIS (Signed)
Secretary.

RESOLVED:—that Miss Irene O'Rourke be and she hereby is appointed as a permanent teacher in the High School: and be it further

30 RESOLVED:—that the Misses Anna Ginsberg, Harriet Stove and Stephanie Tokarski, be and they are hereby appointed as teachers in the elementary department and Miss Josephine Belloff as teacher of kindergarten work.

R. J. BUTLER (Signed)

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Exhibit P-9.

BOARD OF EDUCATION

Hoboken, N. J.

August 19th, 1907

RESOLVED:—that the Misses Edith Sheridan, Marie Rechert, Sara Maxwell and Emma V. Frost, Madeline E. Guisto be and they are hereby appointed as teachers on probation at an annual salary of Six hundred dollars, payable monthly; said appointments to take effect September 9th, 1907. 10

GEO. LANKERING (Signed)

Reverse side of paper.

Appointment of Misses Sheridan, Rechert, Maxwell and Frost on Probation. 20

RESOLVED: That John J. Griffin be and he is hereby appointed as a teacher in the High School and to be paid the regular minimum salary for male teachers in the High School and to be increased annually according to the schedule affecting such teachers.

This appointment to take effect April 1st, 1919.

JOHN F. ZATTA 30

On reverse side of paper. #157.

Resolution appointing John J. Griffin a teacher in the high school.

March 17th, 1919.

Presented, read and adopted.

JOHN F. LEWIS (Signed)
Secretary. 40

Exhibit P-9.

RESOLVED, That John J. Griffin be and hereby is appointed as Principal in the Elementary Schools, assigned to School No. 4, at an annual salary of Twenty-eight Hundred (\$2800) dollars payable in semi-monthly installments, and to be increased annually until the maximum salary for such Principals is reached. This appointment shall take effect September 1st, 1921.

RICHON J. BUTLER.

On reverse side of this page—#425

Resolution appointing John J. Griffin, Principal in the Elementary Schools, assigned to No. 4.

August 22, 1921.

Presented, read and adopted.

JOHN F. LEWIS (Signed)
Secretary.

RESOLVED, That the Misses Lillian V. Hults, Ida Baschon, Marion Crawford, Jemima Thaw, Margaretta Thaw, Isabel McNally, Katherine Kennedy, Elsie Voegtle, Marie Stackhouse, Florence Gonzales, Clara Slote, and Mrs. Marion J. Feinberg be and they are hereby appointed as teachers on probation in the elementary schools of this city, at an annual salary of nine hundred dollars, payable semi-monthly; said appointments to take effect September 1st, 1918, and be it further

RESOLVED, That the above named teachers be increased at the rate of one hundred dollars per annum, from the date of appointment, until the maximum annual salary shall have been reached.

J. P. LAVERTY (Signed)

Exhibit P-9.

RESOLVED, That the following be and they are hereby appointed teachers in the Elementary Schools of this City; Wilma Deitering, Henrietta Van Twisk, Myrtle Rice, Edna Hubsch, Hilda Loemer, Estelle Roggio, Isabel Smith, Mary Kennedy, Camille Turpin, Ethel Cross, Geraldine Whalen, Irma O'Connor, Sylvia Apfelbaum, Estelle Kleiber, Antoinette Cataggio, Hazel Smith, Grace Murray, Elsie Voegtle, Rhoda Littlefield, Mary Langan, Helen Clyons, Clara Wissinger King, and Anna Smith; at an annual salary of Nine Hundred (\$900.) Dollars, payable in semi-monthly installments, and to be increased annually at the rate of \$100 per annum until the maximum salary provided for such teachers is reached; said appointment to take effect September 1, 1919.

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J. H. KOENIG (Signed)

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RESOLVED:—That the Misses Angelina Koch and S. M. Ingleson be and they are hereby appointed as teachers, on probation, in the public schools of this city at an annual salary of Six hundred dollars (\$600.) to take effect February 1, 1911.

JOHN H. SHERIDAN (Signed)

30

RESOLVED, That Florence McInerney, Louise Droste, Anna Pendergast, Florence Riehl, Katherine Hayes, Ethel Coon, Madeline Kovalewski, Florence Mooney, Helen Southard, Mary Sexton, Ella Campbell, Anne Kennedy, Grace Moriarty and Katherine Carey be and hereby are appointed as Teachers in the Elementary Schools, on probation, at the minimum salary of Twelve Hundred (\$1200.) Dollars per annum, payable in semi-monthly installments, subject to and conforming with the salary schedule of Teacher in the Ele-

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Exhibit P-9.

mentary Schools. These appointments shall take effect as of February 15th, 1922.

C. F. FITZSIMON (Signed)

10 RESOLVED: That the Misses Carol Shelford, Frieda Stuhrman, Elizabeth Kuester, Mildred Wendt, Agnes Brennan, Anna Oldrin, Anna Wolf, Mary Burgone and Clara Eskin be and they are hereby appointed teachers on probation in the Elementary Schools of this City, at an annual salary of Nine Hundred Dollars (\$900.00) payable in equal semi-monthly installments; said appointments to be effective as of October 1st, 1919.

C. F. FITZSIMON (Signed)

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RESOLVED: That Misses Clare Bowes, Martha Pawlik, and Edna Kamena be and they are hereby appointed on probation as teachers in the elementary schools of this City, at an annual salary of six hundred dollars, payable semi-monthly; said appointments to take effect February 19th, 1918.

C. F. FITZSIMON (Signed)

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BOARD OF EDUCATION
HOBOKEN, N. J.

February 21st, 1910.

RESOLVED:—That Miss Anna Rumohr, be and she is hereby appointed as a teacher on probation, at an annual salary of Six hundred dollars, payable monthly; said appointment to take effect March 1st, 1910.

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GEO. GEBHARDT (Signed)

Exhibit P-9.

RESOLVED, That Paula Scheinman be and hereby is appointed as a Teacher in the Elementary Schools, on probation, to date from June 15th, 1923, at the minimum salary of Twelve Hundred (\$1200.) Dollars per annum, payable in semi-monthly installments, subject to and conforming with the provisions of the General Salary Schedule until the maximum is reached. 10

MORIS DRUZ (Signed)

RESOLVED:—that the Misses Florence Miller, Freda Seyd and Gertrude M. Haggerty be and they are hereby appointed as teachers in the public schools of the City of Hoboken, on probation, at an annual salary of Six Hundred (\$600.) dollars, payable monthly; said appointments to take effect immediately. 20

RICHARD MOONEY (Signed)

BOARD OF EDUCATION

HOBOKEN, N. J.

August 17th, 1908.

RESOLVED:—that the Misses Rose Hauser, Lottie Schlank, Edna Frost, V. Spohr, Janet Balkan, Grace Vilar, Alice McDermott, Mary E. Tallon, Janet Peters and Mrs. M. Delehey, Anna M. Bryan, Theresa Maggi, Ida B. Forbes and Lillian Dod, be and they are hereby appointed as teachers on probation, at an annual salary of \$600.00; said appointments to take effect September 1st, 1908. 30

RICHARD BANARA (Signed) 40

Exhibit P-9.

BOARD OF EDUCATION

HOBOKEN, N. J.

January 18th, 1904.

- 10 RESOLVED:—that Miss A. Smith be and she is hereby appointed as a teacher in the public schools of this city, at a salary of Four hundred and eighty dollars per annum, payable monthly; said appointment to take effect February 1st, 1904.

CHAS. V. DARCY (Signed)

- 20 RESOLVED:—that the Misses Florence Anthony, Celeste Livesey, Anna Rafferty, Hazel Davies and Ethel Sweatman be and they are hereby appointed as teachers in the elementary schools, on probation, at an annual salary of Six hundred dollars; said appointments to take effect immediately.

J. O'Rourke (Signed)

C. F. FITZSIMON “

R. J. BUTLER “

MAX JOHNSON “

- 30 RESOLVED:—That Mildred Wintermute be and hereby is appointed as a Teacher in the Elementary Schools, on probation, at the minimum salary of Twelve Hundred (\$1200.) Dollars per annum, payable in semi-monthly installments subject to and conforming with the provisions of the General Salary Schedule until the maximum salary for Teacher in the Elementary Schools is reached. This appointment shall date from March 1st, 1923.

PHILIP STEPHAN (Signed)

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Exhibit R-1.

Table VII gives the instructional costs per pupil in average daily attendance for supervision, teachers' salaries, textbooks, supplies, other instructional items and total for every school district of the State.

TABLE VII
Instructional Costs Per Pupil in Average Daily Attendance

	<i>Super- visory</i>	<i>Teachers' Salaries</i>	<i>Textbooks</i>	<i>Supplies</i>	<i>Other Instruc- tional Expenses</i>	<i>Total Instruc- tional Costs</i>
ATLANTIC						
Absecon	\$9.12	\$66.05	\$1.04	\$5.00	\$0.55	\$81.76
Atlantic City	14.48	108.65	2.00	2.83	0.70	128.66
Brigantine .....	.....	92.00	1.72	2.00	2.22	97.94
Buena Vista	3.17	48.72	2.47	3.46	.....	57.82
Corbin City .....	.....	47.80	2.55	2.41	.....	52.76
Egg Harbor City	5.65	67.51	2.78	8.99	.....	84.93
Egg Harbor Twp. ....	.....	62.99	4.36	3.17	0.11	70.63
Estell Manor .....	.....	58.39	1.79	1.49	.....	61.67
Folsom .....	.....	75.00	1.63	4.71	.....	81.34
Galloway Twp. ....	.....	46.95	1.77	2.32	0.02	51.06
Hamilton	5.98	63.28	2.47	0.73	.....	72.46
Hammonton	7.72	76.76	2.06	4.52	0.57	91.63
Linwood	12.15	73.24	1.56	2.41	0.03	89.39
Longport .....	.....	81.08	.....	.....	.....	81.08
Margate City	6.54	84.86	2.67	4.12	0.76	98.95
Mullica .....	.....	52.77	2.29	1.60	.....	56.66
Northfield	9.84	69.34	2.41	3.96	0.49	86.04
Pleasantville	6.51	63.46	3.00	7.61	0.11	80.69
Port Republic .....	.....	59.18	2.27	5.69	.....	67.14
Somers Point	12.82	81.83	2.29	9.54	.....	106.48
Ventnor City	18.11	102.63	1.79	6.05	1.65	130.23
Weymouth .....	.....	44.01	1.14	1.59	0.19	46.93
Totals	\$10.42	\$87.48	\$2.22	\$4.02	\$0.52	\$104.66
BERGEN						
Allendale	\$12.13	\$65.39	\$2.17	\$5.41	\$0.99	\$86.09
Alpine .....	.....	102.16	0.53	4.36	0.23	107.28
Bergenfield	5.60	68.56	2.03	3.44	0.40	80.03
Bogota	4.91	93.67	3.75	4.23	.....	106.56
Carlstadt	5.49	47.10	0.54	1.46	0.33	54.92
Cliffside Park	14.75	90.90	2.50	4.27	0.12	112.54
Closter	15.96	91.20	2.89	5.32	1.00	116.37
Cresskill	14.12	69.38	1.57	3.78	0.45	89.30
Demarest	5.41	76.48	3.49	4.27	0.41	90.06
Dumont	8.01	67.26	3.25	4.67	0.17	83.36
East Paterson	4.16	43.35	1.56	1.16	0.05	50.28
East Rutherford	11.80	59.06	2.86	4.00	0.55	78.27
Edgewater	15.75	113.01	3.74	5.97	0.27	138.74
Emerson .....	.....	63.16	2.61	7.94	0.21	73.92
Englewood	14.11	97.14	1.34	4.65	.....	117.24
Englewood Cliffs	105.00	10.63	9.20	124.83
Fairlawn	48.36	4.24	2.34	0.22	55.16
Fairview	8.85	64.70	2.03	3.86	0.02	79.46

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Exhibit R-1.

	BERGEN—Con.	Super- visory	Teachers' Salaries	Textbooks	Supplies	Other Instruc- tional Expenses	Total Instruc- tional Costs
	Fort Lee	10.93	99.33	4.45	4.68	0.16	119.55
	Franklin Lakes .....	.....	70.57	2.23	5.87	1.27	79.94
	Garfield	6.73	53.87	1.67	1.87	.....	64.14
	Glen Rock	9.40	78.06	2.71	5.96	1.27	97.40
	Hackensack	13.51	99.21	1.92	5.00	*	119.64
10	Harrington Park	15.00	66.07	3.70	3.55	0.40	88.72
	Hasbrouck Heights	10.85	88.86	3.81	5.31	0.36	109.19
	Haworth	4.80	108.51	2.24	9.77	0.53	125.85
	Hillsdale	8.84	70.51	1.50	3.57	0.25	84.67
	Hohokus Boro. ....	.....	103.90	1.07	5.54	0.25	110.76
	Hohokus Twp.	7.24	67.22	1.20	1.47	0.11	77.24
	Leonia	8.95	99.08	3.18	4.74	0.32	116.27
	Little Ferry	5.20	53.31	2.38	2.66	0.25	63.80
	Lodi Boro.	9.23	58.01	1.36	2.71	.....	71.31
	Lodi Twp. ....	.....	47.72	2.09	1.85	.....	51.66
	Lyndhurst	9.75	76.53	2.48	5.94	0.04	94.74
	Maywood	10.60	86.75	1.46	8.84	.....	107.65
	Midland Park	7.36	66.38	2.22	5.67	0.15	81.78
	Montvale .....	.....	70.33	1.20	1.65	.....	73.18
	Moonachie .....	.....	57.25	2.51	2.52	0.48	62.76
	New Milford	11.15	71.51	2.39	4.52	0.71	90.28
20	North Arlington	8.83	50.75	2.33	2.75	0.29	64.95
	Northvale .....	.....	63.10	3.35	0.98	0.12	67.55
	Norwood	2.49	73.57	3.84	3.38	.....	83.28
	Oakland .....	.....	70.72	5.17	3.27	1.21	80.37
	Old Tappan .....	.....	59.57	0.97	2.41	0.15	63.10
	Oradell	14.31	86.49	2.06	4.69	.....	107.55
	Overpeck	15.71	105.63	2.91	5.79	.....	130.04
	Palisades Park	9.40	65.22	2.49	4.50	.....	81.61
	Paramus	11.09	66.50	2.82	3.35	0.06	83.82
	Park Ridge	8.98	76.56	4.10	5.96	0.04	95.64
	Ramsey	6.22	73.66	3.32	3.81	0.65	87.66
	Ridgefield	8.39	71.67	3.66	4.20	0.20	88.12
	Ridgewood	24.84	95.90	2.61	9.70	0.16	133.21
	River Edge	15.42	73.47	1.54	8.35	.....	98.78
	Rivervale .....	.....	84.53	2.87	5.65	.....	93.05
	Rochelle Park	8.04	59.07	2.30	4.61	0.26	74.28
	Rochleigh .....	.....	.....	.....	.....	.....	.....
30	Rutherford	15.61	96.09	2.95	3.98	0.34	118.97
	Saddle River Boro. ....	.....	91.79	1.71	3.18	.....	96.68
	Saddle River Twp.	5.36	49.95	5.65	3.55	0.03	64.54
	Teaneck	10.78	79.39	2.85	4.87	0.13	98.02
	Tenafly	20.03	105.95	4.21	6.14	.....	136.33
	Teterboro .....	.....	.....	.....	.....	.....	.....
	Upper Saddle River .....	.....	61.54	1.15	3.08	.....	65.77
	Waldwick	12.59	54.09	1.78	2.62	.....	71.08
	Wallington	4.05	42.80	1.92	2.99	0.11	51.87
	Washington Twp. ....	.....	.....	.....	.....	.....	.....
	Westwood	15.76	86.10	3.24	3.63	0.34	109.07
	Woodcliffe Lake .....	.....	80.02	2.75	2.53	0.68	85.98
	Wood Ridge	3.69	47.79	2.26	2.16	0.52	56.42
	Wyckoff	7.23	45.61	3.25	4.14	60.23
40	Totals	\$10.32	\$76.00	\$2.50	\$4.29	\$0.17	\$93.28

* Less than one-half cent.

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Chesilhur
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Delaware
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Exhibit R-1.

Total Instructional Costs	BURLINGTON	Supervisory	Teachers' Salaries	Textbooks	Supplies	Other Instructional Expenses	Total Instructional Costs	
19.56	Bass River	\$.....	\$57.58	\$2.36	\$3.07	\$0.94	\$63.95	
79.94	Beverly	5.81	53.13	1.44	2.01	.....	62.39	
64.14	Bordentown City .....	.....	49.10	1.85	1.63	0.20	52.78	
97.40	Bordentown Twp. ....	.....	.....	.....	.....	.....	.....
119.64	Burlington City	3.21	60.49	1.62	2.12	.....	67.44	
88.72	Burlington Twp.	5.19	63.42	0.66	4.37	0.17	73.81	
99.19	Chester	6.56	50.45	2.08	2.99	0.06	62.14	10
125.85	Chesterfield .....	.....	43.86	1.51	2.45	.....	47.82	
84.67	Cinnaminson	8.08	55.10	2.17	3.57	0.30	69.22	
10.76	Delanco	8.68	52.71	2.93	3.21	0.30	67.83	
77.24	Delran .....	.....	49.60	2.36	2.59	.....	54.55	
16.27	Easthampton .....	.....	50.36	2.89	3.04	.....	56.29	
63.80	Edgewater Park .....	.....	70.47	2.62	4.55	.....	77.64	
71.31	Evesham .....	.....	46.90	1.79	2.37	0.13	51.19	
51.66	Fieldsboro .....	.....	66.76	1.96	1.28	0.52	70.52	
94.74	Florence	6.20	54.97	2.02	3.44	.....	66.63	
97.65	Hainesport .....	.....	50.34	1.65	3.33	.....	55.32	
81.78	Lumberton .....	.....	49.77	0.86	1.19	0.05	51.87	
73.18	Mansfield .....	.....	47.56	2.06	2.92	.....	52.54	
62.76	Medford .....	.....	44.33	1.80	2.94	.....	49.07	
90.28	Moorestown	7.04	80.76	1.22	2.71	0.51	92.24	
64.95	Mt. Laurel .....	.....	49.54	3.27	11.03	0.39	64.23	20
67.55	New Hanover .....	.....	56.21	2.95	2.42	.....	61.58	
83.28	Northampton	9.04	69.81	3.41	4.04	0.16	86.46	
80.37	North Hanover .....	.....	31.73	3.19	3.71	.....	38.63	
63.10	Palmyra	8.34	59.08	3.12	5.07	0.08	75.69	
97.55	Pemberton Boro	10.64	99.04	4.56	9.36	0.48	124.08	
30.04	Pemberton Twp. ....	.....	59.78	2.69	2.60	1.41	66.48	
81.61	Riverside	18.68	56.62	3.10	3.53	0.07	82.00	
83.82	Riverton	15.55	78.13	2.19	4.95	.....	100.82	
95.64	Shamong .....	.....	44.58	6.06	.....	.....	50.64	
97.66	Southampton .....	.....	44.22	1.39	2.97	0.02	48.60	
38.12	Springfield .....	.....	53.90	3.23	5.45	.....	62.58	
33.21	Tabernacle .....	.....	35.60	2.67	3.68	0.02	41.97	
98.78	Washington .....	.....	59.70	3.05	3.45	.....	66.20	
93.05	Westampton .....	.....	.....	.....	.....	.....	.....
4.28	Willingboro .....	.....	55.74	2.37	3.22	0.26	61.59	
.....	Woodland .....	.....	53.63	3.41	4.94	.....	61.98	
.....	Totals	\$5.60	\$59.04	\$2.25	\$3.39	\$0.15	\$70.43	30
.....	CAMDEN							
.....	Audubon	\$8.79	\$78.65	\$2.45	\$5.38	.....	\$95.27	
5.77	Barrington .....	.....	52.61	1.93	3.97	.....	58.51	
1.08	Bellmawr .....	.....	49.02	2.85	1.88	\$0.54	54.29	
1.87	Berlin Boro. ....	.....	53.06	1.93	3.04	.....	58.03	
.....	Berlin Twp. ....	.....	43.96	1.77	2.25	0.12	48.10	
9.07	Brooklawn .....	.....	60.47	1.02	4.53	0.54	66.56	
5.98	Camden	8.20	79.64	3.05	2.51	.....	93.40	
6.42	Chesilhurst .....	.....	38.81	1.01	2.18	.....	42.00	
0.23	Clementon	3.08	45.17	2.51	1.84	.....	52.60	
.....	Collingswood	11.54	79.44	2.28	4.08	0.10	97.44	
.....	Delaware	4.24	49.99	2.13	2.32	.....	58.68	
.....	Gibbsboro .....	.....	56.78	2.52	2.51	0.15	61.96	
.....	Gloucester City	8.79	58.64	1.75	3.51	0.63	73.32	40

Exhibit R-1.

	<i>Super- visory</i>	<i>Teachers' Salaries</i>	<i>Textbooks</i>	<i>Supplies</i>	<i>Other Instruc- tional Expenses</i>	<i>Total Instruc- tional Costs</i>
CAMDEN—Con.						
10 Gloucester Twp.	4.16	52.42	2.86	3.55	.....	62.99
Haddon Twp.	4.31	52.38	2.37	3.75	.....	62.81
Haddonfield	7.00	77.35	2.97	4.59	0.57	92.48
Haddon Heights	11.92	79.98	2.32	6.57	.....	100.79
Hi Nella .....	.....	.....	.....	.....	.....	.....
10 Laurel Springs.....	.....	60.33	2.58	3.70	0.89	.....
Lawnside .....	.....	44.63	1.11	2.21	0.25	67.50
Lindenwold	2.96	39.18	2.45	1.66	0.23	48.20
Magnolia	0.28	49.14	2.88	1.22	0.02	46.48
Merchantville	8.86	79.11	2.94	3.77	0.38	53.54
Mt. Ephraim	4.89	42.83	2.31	2.06	0.31	95.06
Oaklyn	7.24	70.34	3.68	3.48	.....	52.40
Pensauken	3.30	59.87	1.99	3.59	0.07	84.74
Pine Hill	2.72	32.33	2.33	2.62	*	68.82
Pine Valley .....	.....	.....	.....	.....	.....	40.00
Runnemede .....	.....	42.95	1.93	2.15	0.18	.....
Somerdale .....	.....	42.46	1.50	1.43	0.16	47.21
Stratford	3.95	51.80	2.14	3.67	0.34	45.55
Tavistock .....	.....	.....	.....	.....	.....	61.90
Voorhees .....	.....	50.17	2.87	4.29	0.11	.....
Waterford .....	.....	43.18	1.33	2.21	.....	57.44
Winslow .....	.....	38.51	2.73	1.55	.....	46.72
20 Woodlynne .....	.....	55.28	2.26	3.01	.....	42.79
Totals	\$6.65	\$69.36	\$2.64	\$3.11	\$0.10	60.55
* Less than one-half cent.						
CAPE MAY						
Avalon .....	.....	\$85.59	\$1.54	\$8.91	\$1.72	\$97.76
Cape May City.....	.....	82.42	3.33	6.95	0.18	92.88
Cape May Point.....	.....	150.83	.....	7.69	0.56	159.08
Dennis Twp. ....	.....	45.07	2.01	3.45	0.04	50.57
Lower Twp. ....	.....	46.48	2.54	3.75	.....	52.77
Middle Twp.	\$4.45	65.07	2.41	4.38	0.38	76.69
30 North Wildwood	14.90	98.87	1.69	6.56	0.01	122.03
Ocean City	8.50	80.37	3.96	4.88	0.71	98.42
Sea Isle City.....	10.49	68.00	3.13	5.32	0.37	87.31
Stone Harbor .....	.....	100.62	3.41	13.50	.....	117.53
Upper Twp. ....	.....	46.20	2.25	2.71	.....	51.16
West Cape May .....	.....	81.48	2.85	5.28	0.28	89.89
West Wildwood .....	.....	.....	.....	.....	.....	.....
Wildwood	11.42	86.62	3.01	6.14	0.03	107.22
Wildwood Crest .....	.....	106.41	4.85	2.57	1.52	115.35
Woodbine	6.16	50.46	3.13	3.47	0.04	63.26
Totals	\$6.13	\$74.11	\$3.01	\$5.15	\$0.28	\$88.68

Exhibit R-1.

	<i>Super- visory</i>	<i>Teachers' Salaries</i>	<i>Textbooks</i>	<i>Supplies</i>	<i>Other Instruc- tional Expenses</i>	<i>Total Instruc- tional Costs</i>	
CUMBERLAND							
Bridgeton	\$7.87	\$58.79	\$1.95	\$2.68	\$0.30	\$71.59	
Commercial	3.14	55.53	1.98	1.88	0.08	62.61	
Deerfield	1.52	37.20	2.08	2.22	.....	43.02	
Downe .....	.....	46.69	2.78	2.93	.....	52.40	
Fairfield	1.92	40.79	1.63	1.58	.....	45.92	
Greenwich .....	.....	39.80	1.54	1.46	.....	42.80	
Hopewell	2.12	39.21	1.17	1.90	0.03	44.43	10
Landis	7.75	51.14	1.32	3.81	0.16	64.18	
Lawrence	5.50	40.86	2.64	3.63	0.16	52.79	
Maurice River	1.69	46.69	1.66	2.00	.....	52.04	
Millville	5.34	51.48	2.16	3.02	0.19	62.19	
Shiloh	2.50	38.04	0.34	1.01	.....	41.89	
Stow Creek .....	.....	35.51	1.27	1.54	.....	38.32	
Upper Deerfield	1.68	37.12	1.50	1.41	.....	41.71	
Totals	\$5.80	\$50.88	\$1.78	\$2.93	\$0.17	\$61.56	
ESSEX							
Belleville	\$8.72	\$62.57	\$1.07	\$1.28	\$0.13	\$73.77	
Bloomfield	10.50	92.18	2.70	4.11	.....	109.49	
Caldwell Boro	12.06	90.70	3.72	6.46	0.40	113.34	20
Caldwell Twp.	1.76	54.02	2.01	3.11	.....	60.90	
Cedar Grove	13.02	64.90	3.12	3.45	0.09	84.58	
East Orange	11.39	109.07	2.13	3.24	0.04	125.87	
Essex Fells .....	.....	134.57	5.42	6.42	0.20	146.61	
Glen Ridge	22.15	129.92	3.57	4.42	1.17	161.23	
Irrington	8.94	85.46	1.78	3.49	0.03	99.70	
Livingston	7.98	79.38	3.10	9.33	0.55	100.34	
Millburn	12.94	101.94	3.61	8.37	0.59	127.45	
Montclair	19.65	128.51	1.95	4.35	0.13	154.59	
Newark	10.06	98.82	1.44	2.98	0.35	113.65	
North Caldwell .....	.....	99.85	4.46	7.41	.....	111.72	
Nutley	10.95	81.13	1.41	3.41	0.15	97.05	
Orange	8.55	74.92	1.41	2.42	0.11	87.41	
Roseland	1.99	72.72	6.67	3.02	1.97	86.37	
South Orange	16.86	108.36	2.15	4.22	0.80	132.39	
Verona	23.90	92.77	1.00	3.82	0.41	121.90	30
West Orange	17.80	84.68	2.15	3.07	0.18	107.88	
Totals	\$11.25	\$96.64	\$1.71	\$3.28	\$0.28	\$113.16	

Exhibit R-1.

		<i>Super- visory</i>	<i>Teachers' Salaries</i>	<i>Textbooks</i>	<i>Supplies</i>	<i>Other Instruc- tional Expenses</i>	<i>Total Instruc- tional Costs</i>	
	GLOUCESTER							
	Clayton	\$5.86	\$58.53	\$2.28	\$2.98	\$0.87	\$70.52	High Br
	Deptford .....	.....	40.96	1.84	4.07	.....	46.87	Holland
	East Greenwich .....	.....	47.80	2.48	4.04	0.09	54.41	Kingwoo
	Elk .....	.....	40.10	1.47	2.51	0.22	44.30	Lambert
	Franklin	3.30	40.09	1.77	3.42	0.17	48.75	Lebanon
10	Glassboro	4.78	55.24	2.39	4.89	0.09	67.30	Lebanon
	Greenwich	6.15	51.62	3.62	5.94	0.02	67.35	Milford
	Harrison .....	.....	51.22	2.14	3.14	0.24	56.74	Raritan
	Logan .....	.....	47.25	3.55	3.55	0.16	54.51	Readingt
	Mantua .....	.....	46.34	1.64	5.57	0.14	53.69	Stockton
	Monroe .....	.....	44.69	1.45	3.17	.....	49.31	Tewksbu
	National Park .....	.....	35.70	3.29	3.56	0.05	42.60	Union ..
	Newfield .....	.....	57.99	0.98	12.45	.....	71.42	West An
	Paulsboro	2.43	51.12	2.59	2.60	0.05	58.79	Totals ..
	Pitman	12.32	89.10	1.54	5.90	0.25	109.11	
	South Harrison .....	.....	53.24	2.36	4.72	0.50	60.82	
	Swedesboro	4.96	66.95	2.58	4.99	.....	79.48	MER
	Washington .....	.....	45.48	2.56	3.15	0.04	51.23	East Wi
	Wenonah .....	.....	65.61	3.40	3.80	0.09	72.90	Ewing ..
	West Deptford	3.20	49.21	1.14	3.22	0.09	56.86	Hamilton
	Westville .....	.....	45.38	1.55	2.58	.....	49.51	Hopewell
20	Woodbury	4.84	69.25	3.94	4.67	.....	82.70	Hopewell
	Woodbury Heights .....	.....	67.51	2.62	6.79	0.95	77.87	Lawrence
	Totals	\$3.23	\$55.06	\$2.40	\$4.15	\$0.11	\$64.95	Princeton
								Princeton
								Trenton
								Washing
								West W
								Totals ..
	HUDSON							
	Bayonne	\$7.75	\$98.69	\$2.07	\$4.01	\$0.06	\$112.58	MIDI
	East Newark .....	.....	76.38	2.28	2.91	0.17	81.74	Carteret
	Guttenberg	4.66	54.86	1.39	2.38	0.11	63.40	Cranbury
	Harrison	15.60	69.67	1.34	2.33	*	88.94	Dunellen
	Hoboken	18.35	112.36	2.10	4.13	.....	136.94	East Bru
	Jersey City	10.28	87.50	1.72	2.18	0.05	101.73	Helmetta
	Kearny	10.26	86.09	2.13	3.44	0.01	101.93	Highland
	North Bergen	10.69	69.34	1.39	2.04	0.21	83.67	Jamesbu
	Secaucus	5.24	70.56	2.38	6.55	0.23	84.96	Madison
	Union City	9.70	93.45	2.23	1.87	0.23	107.48	Metuchen
	Weehawken	14.69	91.70	2.81	4.89	0.02	114.11	Middlese
30	West New York.....	11.42	80.65	2.13	7.38	0.24	101.82	Miltown
	Totals	\$10.67	\$89.30	\$1.90	\$3.12	\$0.08	\$105.07	Monroe
								New Bru
								North Br
								Perth An
								Piscataw
								Plainsbor
								Raritan
								Sayrevill
								South Ar
								South Br
								South Pl
								South Ri
								Spotswoo
								Woodbric
								Totals ..
	HUNTERDON							
	Alexandria	\$.....	\$30.52	\$1.71	\$1.55	\$.....	\$33.78	
	Bethlehem .....	.....	.....	.....	.....	.....	.....
	Bloomsbury .....	.....	47.73	2.12	2.63	.....	52.48	
	Califon .....	.....	43.07	1.64	4.31	0.05	49.07	
	Clinton, Town of.....	.....	60.45	3.53	3.95	0.57	68.50	
	Clinton Twp. ....	.....	41.36	3.37	2.90	.....	47.63	
	Delaware .....	.....	34.38	2.45	2.65	0.08	39.56	
	East Amwell .....	.....	40.14	3.07	3.88	.....	47.09	
40	Flemington	7.56	68.72	2.26	3.43	1.06	83.03	
	Franklin .....	.....	34.78	0.33	2.05	.....	37.16	
	Frenchtown	0.26	68.20	2.08	4.35	0.54	75.43	
	Glen Gardner .....	.....	41.67	2.73	1.80	.....	46.20	
	Hampton .....	.....	50.53	2.18	2.10	0.24	55.05	

* Less than one-half cent.

Exhibit R-1.

Total Instructional Costs	HUNTERDON—Con.	Supervisory	Teachers' Salaries	Textbooks	Supplies	Other Instructional Expenses	Total Instructional Costs
\$70.52	High Bridge .....	.....	72.79	2.58	5.49	0.68	81.54
46.87	Holland .....	.....	45.00	2.52	2.11	.....	49.63
54.41	Kingwood .....	.....	36.71	2.22	1.30	0.05	40.28
44.30	Lambertville	4.13	49.23	0.57	3.92	0.29	58.14
48.75	Lebanon Boro. ....	.....	49.25	3.28	3.25	.....	55.78
67.39	Lebanon Twp. ....	.....	49.53	4.35	2.96	.....	56.84
67.35	Milford .....	.....	48.30	2.05	1.89	0.01	52.25
56.74	Raritan .....	.....	42.52	1.16	2.02	.....	45.70
54.51	Readington .....	.....	40.53	1.92	1.30	.....	43.75
53.69	Stockton .....	.....	50.05	1.90	0.97	.....	52.92
49.31	Tewksbury .....	.....	45.47	2.08	2.24	0.08	49.87
42.60	Union .....	.....	44.65	0.99	1.96	.....	47.60
71.42	West Amwell .....	.....	45.98	0.87	1.61	.....	48.46
58.79	Totals	\$1.50	\$51.27	\$2.01	\$3.00	\$0.30	\$58.08
109.11	MERCER						
60.82	East Windsor	\$9.62	\$75.35	\$2.95	\$4.37	\$0.06	\$92.35
79.48	Ewing	4.64	64.29	3.40	3.51	.....	75.84
51.23	Hamilton	3.58	63.44	4.23	3.70	.....	74.95
72.90	Hopewell Boro.	9.34	58.55	0.63	2.00	0.09	70.61
56.86	Hopewell Twp.	11.13	62.69	3.61	3.10	0.16	80.69
49.51	Lawrence	7.23	70.45	2.75	2.80	.....	83.23
82.70	Princeton Boro.	14.59	102.49	2.72	5.62	0.83	126.25
77.87	Princeton Twp. ....	.....	64.59	3.08	6.61	.....	74.28
\$64.95	Trenton	12.77	85.53	1.30	2.13	0.18	101.91
112.58	Washington .....	.....	48.94	4.45	3.09	.....	56.48
81.74	West Windsor .....	.....	44.06	2.28	2.50	.....	48.84
63.40	Totals	\$10.14	\$78.65	\$2.19	\$2.80	\$0.15	\$93.93
88.94	MIDDLESEX						
136.94	Carteret	\$9.58	\$64.64	\$2.85	\$3.43	\$0.08	\$80.58
01.73	Cranbury	4.66	65.57	1.38	1.88	0.09	73.58
01.93	Dunellen	6.46	76.83	2.25	3.03	0.32	88.89
83.67	East Brunswick	3.31	44.69	2.29	3.42	.....	53.71
84.96	Helmetta	10.37	56.32	0.94	1.55	0.26	69.44
07.48	Highland Park	15.03	77.35	2.88	5.28	.....	100.54
14.11	Jamesburg	6.19	55.77	2.74	2.30	.....	67.00
01.82	Madison	3.48	45.30	1.66	2.18	.....	52.62
05.07	Metuchen	6.13	84.72	3.52	7.21	.....	101.58
	Middlesex	7.69	63.65	1.76	2.22	0.12	75.44
	Milftown	10.83	57.11	1.88	4.17	.....	73.99
	Monroe	5.88	47.29	2.07	3.14	0.09	58.47
	New Brunswick	10.13	81.57	1.95	2.43	0.03	96.11
	North Brunswick	3.65	49.09	2.92	3.51	.....	59.17
33.78	Perth Amboy	8.41	76.27	2.14	2.99	0.35	90.16
	Piscataway	6.62	51.67	3.34	2.03	0.23	63.89
52.48	Plainsboro	3.33	50.77	2.03	1.76	0.29	58.18
49.07	Raritan	12.10	59.40	1.36	2.94	0.19	75.99
68.50	Sayreville	5.25	46.56	2.04	3.42	0.24	57.51
47.63	South Amboy .....	.....	91.30	2.38	3.94	0.29	97.91
39.56	South Brunswick	3.78	46.11	1.84	1.48	.....	53.21
47.09	South Plainfield	8.95	56.64	1.18	3.62	0.05	70.44
83.03	South River	4.18	54.88	2.39	5.12	0.12	66.69
37.16	Spotswood .....	.....	39.78	1.71	1.86	.....	43.35
75.43	Woodbridge	7.66	56.89	1.87	3.07	0.18	69.67
46.20	Totals	\$8.09	\$66.76	\$2.17	\$3.25	\$0.15	\$80.42
55.05							

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Exhibit R-1.

	MONMOUTH	Super- visory	Teachers' Salaries	Textbooks	Supplies	Other Instruc- tional Expenses	Total Instruc- tional Costs
	Allenhurst	\$.....	\$.....	\$.....	\$.....	\$.....	\$.....
	Asbury Park	8.17	78.85	2.22	3.82	0.57	93.63
	Atlantic Highlands	11.99	78.21	2.85	7.64	0.21	100.90
	Atlantic Twp. ....	.....	55.01	2.70	2.34	.....	60.05
	Avon .....	.....	51.99	1.31	2.96	0.02	56.28
10	Belmar	13.77	66.82	2.94	4.93	0.51	88.97
	Bradley Beach	9.81	73.17	2.62	5.25	1.15	92.00
	Brielle .....	.....	55.23	1.98	4.99	.....	62.20
	Deal .....	.....	.....	.....	.....	.....	.....
	Eatontown .....	.....	51.65	1.46	1.99	0.10	55.20
	Fair Haven	11.26	57.25	2.04	1.95	1.63	74.13
	Farmingdale .....	.....	46.43	2.12	3.49	.....	52.04
	Freehold Boro.	8.26	65.07	2.35	3.90	.....	79.58
	Freehold Twp. ....	.....	43.14	2.30	2.15	.....	47.59
	Highlands .....	.....	65.32	2.25	2.27	0.18	70.02
	Holmdell .....	.....	57.82	2.37	4.03	0.09	64.31
	Howell .....	.....	44.93	2.77	3.90	0.02	51.62
	Interlacken .....	.....	.....	.....	.....	.....	.....
	Keansburg	8.82	59.61	1.79	2.40	.....	72.62
	Keyport	5.44	58.90	2.77	3.06	0.06	70.23
	Little Silver .....	.....	75.96	2.81	4.79	.....	83.56
20	Long Branch	10.03	85.46	2.27	3.77	0.62	102.15
	Manalapan	6.09	43.30	1.40	1.20	.....	51.99
	Manasquan	12.33	79.07	2.95	4.20	0.17	98.72
	Marlboro .....	.....	54.58	2.19	2.52	.....	59.29
	Matawan	5.26	59.96	2.30	1.92	0.60	70.04
	Middletown	10.80	68.33	2.46	3.69	0.41	85.69
	Millstone .....	.....	38.99	2.63	2.64	0.12	44.38
	Monmouth Beach .....	.....	101.93	0.58	3.20	0.73	106.44
	Neptune City .....	.....	44.86	1.40	1.87	0.11	48.24
	Neptune Twp.	19.73	80.67	2.69	5.38	0.40	108.87
	Oceanport .....	.....	46.00	1.05	2.10	0.15	49.30
	Ocean Twp.	6.22	55.84	2.58	7.39	0.22	72.25
	Raritan .....	.....	38.95	1.55	2.39	0.06	42.95
	Red Bank	13.49	78.88	2.72	4.72	0.18	99.99
	Rumson	10.64	85.10	3.87	5.80	.....	105.41
	Sea Bright .....	.....	98.18	1.83	4.42	0.41	104.84
	Sea Girt .....	.....	.....	.....	.....	.....	.....
30	Shrewsbury Boro. ....	.....	80.98	9.32	2.95	.....	93.25
	Shrewsbury Twp. ....	.....	48.46	2.18	3.03	0.05	53.72
	South Belmar .....	.....	.....	.....	.....	.....	.....
	Spring Lake	19.41	78.05	3.95	8.91	.....	110.32
	Spring Lake Heights.....	.....	40.21	1.29	3.26	.....	44.76
	Union Beach .....	.....	49.08	2.41	3.54	0.19	55.22
	Upper Freehold	4.84	46.27	0.90	0.83	0.13	52.97
	Wall	5.76	42.01	1.55	2.40	0.02	51.74
	West Long Branch .....	.....	48.18	1.18	3.09	.....	52.45
	Totals	\$8.56	\$68.45	\$2.36	\$3.81	\$0.34	\$83.52

MOI
Boonton
Boonton
Butler
Chatham
Chatham
Chester
Denville
Dover
East H
Florham
Hanover
Harding
Jefferso
Kinnelo
Lincoln
Madison
Mendha
Mendha
Mine H
Montvil
Morris
Morrist
Morris
Mt. Lal
Mt. Ari
Mt. Oli
Netcong
Parsipp
Passaic
Pequan
Randolp
Riverdal
Rockaw
Rockaw
Roxbury
Washing
Wharton
Totals
OCE
Barnega
Bay He
Beach
Beachw
Berkeley
Brick
Dover
Eaglesw
Harvey
Island
Jackson
Lacey
Lakehur
Lakewo
Lavallet
Little H

Exhibit R-1.

Total Instruc- tional Costs	MORRIS	Super- visory	Teachers' Salaries	Textbooks	Supplies	Other Instruc- tional Expenses	Total Instruc- tional Costs	
\$.....								
93.63	Boonton Town	\$10.81	\$70.84	\$3.08	\$4.57	\$0.10	\$89.40	
100.90	Boonton Twp.		59.21	2.61	3.84		65.66	
60.05	Butler Boro.	8.35	67.17	2.75	4.60	1.12	83.99	
56.28	Chatham Boro.	14.11	103.02	2.26	8.23	0.06	127.68	
88.97	Chatham Twp.		60.15	8.88			69.03	
92.00	Chester Twp.		53.60	2.03	2.60	0.15	58.38	
62.20	Denville	9.16	58.63	1.71	1.83		71.33	10
	Dover	10.80	68.52	2.43	4.22	0.37	86.34	
55.20	East Hanover		65.76	3.23	4.39	0.89	74.27	
74.13	Florham Park		80.92	1.89	3.02	0.64	86.47	
52.04	Hanover	5.88	63.47	2.77	2.19	1.24	75.55	
79.58	Harding		60.45	3.55	4.22		68.22	
47.59	Jefferson		57.71	3.64	7.34		68.69	
70.02	Kinnelon		57.62	3.04	3.21		63.87	
64.31	Lincoln Park	9.21	45.57	1.04	2.99	0.04	58.85	
51.62	Madison	12.99	94.61	2.93	6.90		117.43	
	Mendham Boro.	10.99	76.40	2.69	3.99	0.58	94.65	
72.62	Mendham Twp.	12.25	73.26	3.02	4.86		93.39	
70.23	Mine Hill		55.89	1.91	2.05		59.85	
83.56	Montville		43.41	2.23	1.54		47.18	
102.15	Morris Plains		78.96	2.52	2.55	0.52	84.55	
51.99	Morristown	16.85	85.66	3.14	8.18		113.83	
98.72	Morris Twp.	9.53	79.48	2.40	3.99	0.18	95.58	20
59.29	Mt. Lakes	17.02	108.97	2.45	5.61	0.17	134.22	
70.04	Mt. Arlington		75.61	6.44	5.50		87.55	
85.69	Mt. Olive		46.21	3.84	1.69		51.74	
44.38	Netcong	4.21	44.66	2.23	1.81	0.11	53.02	
106.44	Parsippany-Troy Hills...	8.97	65.74	2.72	4.55	1.04	83.02	
48.24	Passaic	8.66	51.97	1.88	2.43		64.94	
108.87	Pequanock		64.72	2.28	2.43		69.43	
49.30	Randolph	6.99	42.47	3.25	3.48		56.19	
72.25	Riverdale		52.66	1.79	3.12		57.57	
42.95	Rockaway Boro.	5.66	62.88	2.35	2.57	0.24	73.70	
99.99	Rockaway Twp.	6.04	50.05	1.41	2.54		60.04	
05.41	Roxbury	5.94	63.68	3.18	3.85		76.65	
04.84	Washington		54.38	1.20	2.69	0.01	58.28	
	Wharton	5.39	57.01	3.59	3.00	0.54	69.53	
93.25	Totals	\$8.75	\$69.53	\$2.72	\$4.47	\$0.23	\$85.70	30
53.72								
10.32								
44.76	OCEAN							
55.22	Barnegat City	\$	\$62.51	\$1.34	\$1.35	\$	\$65.20	
52.97	Bay Head		50.88	2.71	4.30		57.89	
51.74	Beach Haven		62.30	3.40	2.56	0.04	68.30	
52.45	Beachwood							
	Berkeley		51.60	1.36	3.79		56.75	
83.52	Brick		53.80	1.41	4.24	0.03	59.48	
	Dover	6.11	63.70	2.79	4.18	0.07	76.85	
	Eagleswood		56.38	2.22	9.13		67.73	
	Harvey Cedars							
	Island Heights		74.87	1.59	8.63	0.64	85.73	
	Jackson		46.70	1.22	1.50	0.03	49.45	
	Lacey		57.14	3.84	5.32		66.30	
	Lakehurst		41.40	1.43	1.41		44.24	
	Lakewood	13.34	77.23	2.87	3.50	0.06	97.00	40
	Lavallette		60.00	3.64	8.80		72.44	
	Little Egg Harbor.....		50.17	2.56	1.96		54.69	

Exhibit R-1.

	OCEAN—Con.	Super- visory	Teachers' Salaries	Textbooks	Supplies	Other Instruc- tional Expenses	Total Instruc- tional Costs
10	Long Beach .....	.....	.....	.....	.....	.....	.....
	Manchester .....	.....	48.51	1.75	5.97	.....	56.23
	Mantoloking .....	.....	.....	.....	.....	.....	.....
	Ocean .....	.....	44.69	1.03	2.05	.....	47.77
	Ocean Gate .....	.....	72.73	1.47	3.64	0.61	78.45
	Pine Beach .....	.....	.....	.....	.....	.....	.....
	Plumsted .....	.....	43.91	1.86	1.71	.....	47.48
	Point Pleasant .....	.....	43.15	1.19	2.07	0.11	46.52
	Point Pleasant Beach.....	10.60	85.41	2.12	5.77	0.97	104.87
	Seaside Heights .....	.....	82.98	.....	6.59	.....	89.57
	Seaside Park .....	.....	60.81	1.34	3.16	.....	65.31
	Ship Bottom-Beach Arlington .....	.....	.....	.....	.....	.....	.....
	South Toms River.....	.....	.....	.....	.....	.....	.....
	Stafford .....	.....	44.48	1.33	1.99	.....	47.80
	Surf City .....	.....	.....	.....	.....	.....	.....
	Tuckerton	6.30	49.56	4.21	3.09	0.55	63.71
	Union	13.26	60.35	2.82	5.28	.....	81.71
	Totals	\$6.53	\$63.63	\$2.46	\$3.71	\$0.15	\$76.48
20	PASSAIC						
	Bloomington	\$5.18	\$52.64	\$2.16	\$7.92	\$0.17	\$68.07
	Clifton	5.79	67.03	2.15	2.25	0.14	77.36
	Haledon	6.22	59.14	0.81	3.06	.....	69.23
	Hawthorne	3.24	77.96	1.32	2.36	.....	84.88
	Little Falls	5.83	72.80	2.42	3.75	0.55	85.35
	North Haledon	6.27	55.19	2.57	4.13	0.13	68.29
	Passaic	9.10	86.76	1.41	2.18	0.02	99.47
	Paterson	11.68	95.25	1.90	2.89	0.08	111.80
	Pompton Lakes	4.32	70.84	1.98	4.93	0.13	82.20
	Prospect Park	5.41	47.60	2.49	2.01	0.10	57.61
	Ringwood .....	.....	45.54	3.09	0.55	0.05	49.23
	Totowa	5.74	59.11	1.93	2.58	0.29	69.65
	Wanaque	5.49	60.56	2.67	3.59	0.21	72.52
	Wayne .....	.....	61.68	2.83	3.34	.....	67.85
	West Paterson	5.82	60.89	0.83	2.03	0.28	69.85
	West Milford .....	.....	59.07	1.82	3.09	.....	63.98
30	Totals	\$8.87	\$83.32	\$1.84	\$2.68	\$0.09	\$96.80
40	SALEM						
	Alloway	\$	\$43.92	\$1.77	\$2.72	\$	\$48.41
	Elmer .....	.....	54.01	3.47	4.69	.....	62.17
	Elsinboro .....	.....	40.80	2.20	2.65	.....	45.65
	Lower Alloway Creek.....	.....	53.94	1.71	2.86	.....	58.51
	Lower Penns Neck.....	.....	44.32	2.43	1.80	0.05	48.60
	Mannington .....	.....	40.55	3.34	3.87	.....	47.76
	Oldmans .....	.....	43.61	2.18	2.25	.....	48.04
	Penns Grove	3.21	35.85	3.08	2.11	0.34	44.59
	Pilesgrove	4.79	56.81	2.26	3.27	0.03	67.16
	Pittsgrove .....	.....	36.99	2.18	1.81	0.01	40.99
	Quinton .....	.....	35.18	1.36	2.33	*	38.87
	Salem .....	.....	49.60	2.32	2.74	0.21	54.87
	Upper Penns Neck.....	4.58	53.15	2.30	2.67	0.22	62.92
	Upper Pittsgrove .....	.....	43.37	2.99	2.14	0.14	48.64
	Totals	\$1.58	\$46.02	\$2.46	\$2.59	\$0.15	\$52.80

* Less than one-half cent.

Exhibit R-1.

Total Instructional Costs	SUPERVISORY	TEACHERS' SALARIES	TEXTBOOKS	SUPPLIES	OTHER INSTRUCTIONAL EXPENSES	TOTAL INSTRUCTIONAL COSTS
SOMERSET						
Bedminster	\$	\$66.63	\$2.23	\$2.08	\$0.47	\$71.41
Bernards	11.05	96.07	3.54	7.45	1.31	119.42
Bound Brook	9.42	65.02	2.23	3.62	.....	80.29
Branchburg .....	.....	49.21	1.84	2.81	0.14	54.00
Bridgewater	4.70	42.87	1.53	4.01	0.08	53.19
East Millstone .....	.....	48.28	2.42	4.92	.....	55.62
Far Hills .....	.....	107.86	7.89	7.69	5.12	128.56
Franklin	4.35	38.26	1.02	1.71	.....	45.34
Hillsborough .....	.....	48.53	2.99	2.05	.....	53.57
Manville	3.49	30.12	2.25	1.73	.....	37.59
Millstone .....	.....	43.33	5.52	2.75	0.17	51.77
Montgomery .....	.....	39.39	2.19	2.66	.....	44.24
North Plainfield Boro.....	10.14	71.90	2.67	3.41	0.14	88.26
North Plainfield Twp.....	.....	45.38	2.10	2.77	0.30	50.55
Peapack-Gladstone	13.87	74.49	2.18	4.43	0.27	95.24
Rocky Hill .....	.....	38.04	0.90	1.39	.....	40.33
Somerville	4.20	59.82	2.23	2.55	0.28	69.08
South Bound Brook.....	6.33	44.56	1.73	2.42	0.03	55.07
Warren .....	.....	39.80	2.62	1.62	0.02	44.00
Watchung .....	.....	58.38	2.22	2.84	.....	63.44
Totals	\$6.10	\$58.21	\$2.29	\$3.31	\$0.24	\$70.15
SUSSEX						
Andover Boro.	\$	\$44.69	\$2.85	\$4.05	\$0.16	\$51.75
Andover Twp. ....	.....	100.00	3.98	17.34	0.10	121.42
Branchville .....	.....	42.53	1.52	0.64	.....	44.69
Byram .....	.....	75.00	3.39	5.22	.....	83.61
Frankford .....	.....	43.26	1.11	1.03	.....	45.40
Franklin	11.67	69.10	2.38	5.66	.....	88.81
Fredon .....	.....	44.90	3.07	2.49	.....	50.46
Green .....	.....	31.13	1.34	2.82	.....	35.29
Hamburg .....	.....	64.94	1.48	3.72	1.32	71.46
Hampton .....	.....	36.05	.....	1.38	.....	37.43
Hardyston .....	.....	45.64	4.43	3.09	.....	53.16
Hopateong .....	.....	71.74	10.65	0.11	0.17	82.67
Lafayette .....	.....	34.50	2.13	1.59	0.08	38.30
Montague .....	.....	48.80	2.73	1.19	0.19	52.91
Newton	5.24	73.90	3.17	3.01	0.80	86.12
Ogdensburg	7.38	46.46	3.51	1.60	0.47	59.42
Sandyston .....	.....	54.35	4.33	3.32	0.17	62.17
Sparta .....	.....	42.31	2.26	4.79	.....	49.36
Stanhope	4.05	42.11	1.85	1.82	0.25	50.08
Stillwater .....	.....	50.50	1.99	1.90	.....	54.39
Sussex .....	.....	58.19	3.05	3.36	0.38	64.98
Vernon .....	.....	47.43	2.20	3.31	*	52.94
Walpack .....	.....	54.55	2.49	5.30	0.11	62.45
Wantage	40.16	4.32	3.67	0.26	48.41
Totals	\$4.13	\$58.68	\$2.78	\$3.45	\$0.34	\$69.38

* Less than one-half cent.

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Exhibit R-1.

UNION	Super- visory	Teachers' Salaries	Textbooks	Supplies	Other Instruc- tional Expenses	Total Instruc- tional Costs
Clark	\$7.62	\$49.38	\$1.64	\$1.45	\$0.45	\$60.54
Cranford	14.26	84.40	2.26	4.73	0.10	105.75
Elizabeth	9.74	79.79	1.35	2.37	0.10	93.35
Garwood	8.25	69.49	2.24	5.10	0.08	85.16
Hillside	8.73	67.85	2.59	3.74	0.13	83.04
Kenilworth	6.17	50.10	1.26	1.52	0.21	59.26
Linden	9.52	69.05	2.91	4.25	0.33	86.06
Mountainside		85.35	0.58	3.48		89.41
New Providence Boro.....	10.88	61.85	1.78	6.11	0.10	80.72
New Providence Twp.....	7.25	48.67	0.91	3.40	0.10	60.33
Plainfield	8.70	98.45	2.10	4.00	0.49	113.74
Rahway	7.21	77.16	2.16	4.50	0.67	91.70
Roselle	14.49	67.97	3.02	4.59	0.15	90.22
Roselle Park	8.02	70.82	1.54	2.65	0.44	83.47
Scotch Plains	8.88	72.26	1.89	4.52	0.11	87.66
Springfield	8.65	62.13	2.24	3.60		76.62
Summit	12.29	113.92	2.53	4.73	0.10	133.57
Union	9.98	54.80	2.53	3.60	0.07	70.98
Westfield	12.91	92.80	2.72	6.69		115.12
Totals	\$9.93	\$78.83	\$2.07	\$3.71	\$0.20	\$94.74
WARREN						
Allamuchy	\$	\$45.49	\$2.72	\$3.75	\$0.11	\$52.07
Alpha	3.72	32.95	1.39	1.67		39.73
Belvidere	6.75	62.02	2.52	2.27		73.56
Blairstown		41.85	2.56	4.29	0.01	48.71
Franklin		33.33	2.02	3.25		38.60
Frelinghuysen		36.36	3.92	3.81		44.09
Greenwich		47.03	2.27	1.77	0.06	51.13
Hackettstown	6.08	70.32	3.16	3.52	0.07	83.15
Hardwick		40.00	1.52	1.74		43.26
Harmony		38.04	2.42	1.70	0.03	42.19
Hope		34.91	2.10	4.35		41.36
Independence		40.04	1.62	2.64	0.02	44.32
Knowlton		42.99	1.53	2.18		46.70
Liberty		36.25	1.86	3.10		41.21
Lopatcong		41.28	2.66	2.40	0.04	46.38
Mansfield		54.84	6.12	2.90		63.86
Oxford	4.96	37.89	1.38	1.96		46.19
Pahaquarry		166.67	1.86	9.07		177.60
Phillipsburg	5.67	58.74	1.59	2.57	0.32	68.89
Pohatcong		35.81	1.49	1.43		38.73
Washington Boro.....	5.46	50.28	2.99	2.94	0.80	62.47
Washington Twp.....	7.09	37.60	2.76	2.95		50.40
White		41.64	2.60	1.27		45.51
Totals	\$3.91	\$51.03	\$2.13	\$2.61	\$0.20	\$59.88

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Sussex
Union
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Totals

Exhibit R-2.

STATE	Super- visory	Teachers' Salaries	Textbooks	Supplies	Other Instruc- tional Expenses	Total Instruc- tional Costs
Atlantic	\$10.42	\$87.48	\$2.22	\$4.02	\$0.52	\$104.66
Bergen	10.32	76.00	2.50	4.29	0.17	93.28
Burlington	5.60	59.04	2.25	3.39	0.15	70.43
Camden	6.65	69.36	2.64	3.11	0.10	81.86
Cape May	6.13	74.11	3.01	5.15	0.28	88.68
Cumberland	5.80	50.88	1.78	2.93	0.17	61.56
Essex	11.25	96.64	1.71	3.28	0.28	113.16
Gloucester	3.23	55.06	2.40	4.15	0.11	64.95
Hudson	10.67	89.30	1.90	3.12	0.08	105.07
Hunterdon	1.50	51.27	2.01	3.00	0.30	58.08
Mercer	10.14	78.65	2.19	2.80	0.15	93.93
Middlesex	8.09	66.76	2.17	3.25	0.15	80.42
Monmouth	8.56	68.45	2.36	3.81	0.34	83.52
Morris	8.75	69.53	2.72	4.47	0.23	85.70
Ocean	6.53	63.63	2.46	3.71	0.15	76.48
Passaic	8.87	83.32	1.84	2.68	0.09	96.80
Salem	1.58	46.02	2.46	2.59	0.15	52.80
Somerset	6.10	58.21	2.29	3.31	0.24	70.15
Sussex	4.13	58.68	2.78	3.45	0.34	69.38
Union	9.93	78.83	2.07	3.71	0.20	94.74
Warren	3.91	51.03	2.13	2.61	0.20	59.88
Totals	\$9.12	\$79.02	\$2.11	\$3.41	\$0.19	\$93.85

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Exhibit R-2.

THIS IS TO CERTIFY that the following is a true and complete copy of the minutes of an Adjourned Stated Session of the Board of Education of the School District of Hoboken, N. J., held June 29th, 1932.

JOHN T. LEWIS,
Secretary.

[SEAL]

BOARD OF EDUCATION

ADJOURNED STATED SESSION

Minutes of an Adjourned Stated Session of the Board of Education of the School District of Hoboken, N. J., held Wednesday evening, June

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Exhibit R-2.

29, 1932 at 8 o'clock (Daylight Saving Time), in the Board Room, Public School No. 4.

Present—Messrs. Butler, Druz, Duffy, Gaynor, Hackett, Koenig, Zatta, Vice-President Fitzsimon and President Laverty.

Absent—None.

- 10 The Secretary advised the Board of the receipt of tuition fees from the District of Fairview in the sum of \$637.50. On motion of Mr. Duffy seconded by Mr. Zatta, the communication was referred to the Committee on Finance.

- 20 The Board of Trustees of the Teachers' Pension and Annuity Fund advised the Board that the applications of the following named employees of the Board of Education of the School District of Hoboken for superannuation retirement had been approved to date from July 1, 1932:

Luther B. Bissell—No. 264.
 Winifred A. McCain—No. 1933.
 Helen Van Keuren—No. 1939.
 Mary L. O'Callaghan—No. 1948.
 Charlotte A. Lambert—No. 1957.
 Lucy V. Lambert—No. 1941.
 Louise R. Hoehnle—No. 2942.

- 30 On motion of Mr. Duffy, seconded by Mr. Koenig, the communications from the Board of Trustees of the Teachers' Pension and Annuity Fund were received and filed and the Secretary directed to take the names of Luther B. Bissell, Winifred A. McCain, Helen Van Keuren, Mary L. O'Callaghan, Charlotte A. Lambert, Lucy V. Lambert and Louise R. Hoehnle from the active rolls as of July 1, 1932.

- 40 The following communication was received from the Committee on Supplies:

Exhibit R-2.

June 29, 1932.

To the Honorable, the Board of Education, School
District of Hoboken, N. J.

Gentlemen:—Your Committee on Supplies, to whom was referred the proposals for Coal, Wood, Janitor Supplies, Stationery, Medical, Manual Training and other educational supplies for the school year 1932-33, said proposals having been received at the Stated Session held Monday evening, June 20, 1932, reports that they have carefully examined the same together with samples submitted and recommends that the various items be awarded as follows: 10

COAL:

Frank C. Moller Coal Co.—Pea Coal, \$8.60 per ton; Nut Coal, \$10.90 per ton; Stove Coal, \$10.90 per ton, and Egg Coal, \$10.75 per ton. 20

WOOD:

Frank C. Moller Coal Co.—\$19.00 per cord.

JANITOR SUPPLIES:

W. D. Bindwald—Bon Ami, \$1.75 per case; Sal Soda, \$2.70 per keg; Soapine, \$3.65 per case, and Soap, \$4.30 per case. 30

Pioneer Paper Co.—Mops, \$3.20 per dozen; Mop Handles (Janitor), \$2.45 per dozen; Scrub Brushes, \$1.55 per dozen, and Toilet Paper, \$4.75 per case.

C. Muzzi & Co.—Ammonia, 90 cents per dozen pint bottles; Ash Cans, \$1.75 each; Chamois Skins, \$10.00 per dozen; Coal Scoops, \$1.25 each; Corn Brooms, \$6.50 per dozen; Cylinder Oils, 50 cents per gallon; Cotton Waste, 10 cents per pound; 40

Exhibit R-2.

- 10 Dust Pans, \$2.25 per dozen; Dust Cloths, \$1.25 per dozen; Feather Dusters, \$9.00 per dozen; Floor Oil, 21 cents per gallon; Galvanized Iron Pails, \$4.35 per dozen; Hair brooms; 12-inch block, \$55.00 per dozen; 24-inch block, \$110.00 per dozen; Hand Dust Brushes, \$4.00 per dozen; Kerosene Oil, 12 cents per gallon; Ladders, 25 cents and 70 cents per foot; Metal Polish, \$1.00 per dozen cans; Matches, \$4.80 per case; Machine Oil, 40 cents per gallon; Motor Oil, 85 Cents per gallon; Muslin, 5½ cents per yard; Rubber Hose, 11 cents per foot; Sponges, \$1.30 per pound; Wash Boilers, \$11.00 per dozen; Whisk Brooms, \$2.50 per dozen; and Steel Waste Baskets, \$6.65 per dozen.

STATIONERY AND SUPPLIES:

- 20 Chas. Weinacht Stationery Co.—Pens; Eagle, 49 cents per gross; Gillot No. 41, 63 cents per gross; Easterbrook Nos. 556 and 333, 60 cents per gross; Easterbrook No. 048, \$1.02 per gross.
- W. D. Bindewald.—Assorted Rubber Bands, 44 cents per box; Blackboard Pointers, \$1.00 per dozen; Blackboard Erasers, \$1.88 per dozen; Blot-
 30 ters, 5 cents per dozen; Composition Books, 37 cents per dozen; Composition Tablets, 53 cents per dozen; Exercise Books, 69 cents per dozen; White Crayon, 52 cents per gross, Paper Clips, 4½ cents per box; Foolscap Paper, 83 cents per ream; Foolscap Sheets, 79 cents per ream; Prac-
 40 tice Paper—Manila Double Ruled, 20 cents per package; Manila Single Ruled, 20 cents per package; white double ruled, 34 cents per package; White single ruled, 34 cents per package; Pen-
 manship paper—Primary white, 31 cents per package; Canary Primary, 35 cents per package; Regular White, 48 cents per package; Arithmetic
 Paper, 26 cents per package; Program Books,

Exhibit R-2.

\$3.95 per dozen; Manila Pads No. 1, \$1.25 per dozen; White Letter Pads, \$1.02 per dozen; White Note Pads, 62 cents per dozen; Rulers, 58 cents per dozen; Steno Note Books, 85 cents per dozen; Thumb Tacks, 14 cents per box; Lead Pencils—American Beats-All, \$1.85 per gross; Penholders, \$1.15 per gross; Spelling Blanks—single ruled, 40 cents per dozen, and double ruled, 40 cents per dozen. 10

MANUAL TRAINING SUPPLIES:

C. Muzzi & Co.—Tools and Shop Supplies—all schools—\$1,389.79. The Lining Store—Sewing Supplies, \$618.20. Keuffel & Esser Co.—Mechanical Drawing Supplies, \$119.76. General Lumber Co.—Lumber to all shops, \$324.26. 20

DRAWING AND ART SUPPLIES:

W. D. Bindewald—all schools—\$1,488.20.

TYPEWRITER SUPPLIES:

W. L. Ellis, Inc.—all schools—\$340.65.

SCIENCE SUPPLIES:

Central Scientific Co.—(Rue and Brandt—Junior Highs and A. J. Demarest High School), \$179.30. 30

General Biology Supply House—Biology Supplies—High School—\$17.45.

MEDICAL SUPPLIES:

Schmidt & Kusseluk—(All schools and Medical and Dental Clinic) \$712.50.

Exhibit R-2.

MISCELLANEOUS PRACTICE SUPPLIES:

W. D. Bindewald—(All schools) \$1,253.20 Magnus Brush & Craft Co.—(Opportunity Dept.), \$141.47.

- 10 Your Committee also recommends that the contract for the cleaning of windows in the several Public School Buildings be awarded to the New Jersey Window Cleaning Co., at the figure named in their proposal, viz: \$398.00 per cleaning.

Respectfully submitted on behalf of the Committee:

(Signed) J. H. KOENIG,
Chairman-Committee on Supplies.

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On the motion of Mr. Koenig, seconded by Mr. Butler, the report of the Committee on Supplies was received and the recommendation contained therein adopted.

The following communication was received from the Superintendent of Schools:

June 28, 1932.

- 30 To the Honorable Members of the Board of Education, District of the City of Hoboken, New Jersey.

Gentlemen:—Subject to your approval, the following transfers have been made as of this date:

TO DAVID E. RUE SCHOOL:

Miss Wilhelmina Sandman from No. 7.
Mrs. Emily Alberts from No. 7.

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Exhibit R-2.

To JOSEPH F. BRANDT SCHOOL:

Mrs. K. McMullen from No. 4.
 Miss E. O'Rafferty from No. 4.
 Mrs. Nora Dougherty from No. 7.

To SCHOOL No. 3:

Miss Gertrude Bowes from No. 4.
 Miss I. E. Deitering from No. 4.
 Miss C. Worsthorn from No. 7.

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To SCHOOL No. 4:

Miss Maude Evans from Brandt Elementary.
 Miss Ethel Berkowitz from No. 3.
 Mrs. Hetty Schultz from No. 6.
 Miss Anna Rumohr from No. 6.
 Miss Paula Scheinman from No. 8.
 Miss Violet Hults from No. 8.
 Miss Velia Ascione from No. 8.
 Miss Sadie Giaimo from No. 8.
 Miss J. E. Bonnard from No. 8.
 Miss Helen Southard from No. 9.
 Miss Angelina Koch from No. 9.
 Miss Hazel M. Gallagher from No. 9.
 Miss M. Kovalewski from No. 9.
 Miss Sadie Schroeder from No. 9.
 Mrs. Clara W. King from No. 9.
 Miss Florence Barrett from No. 9.

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To SCHOOL No. 5:

Miss Ida Erk from No. 4.

To SCHOOL No. 6:

Mr. H. S. Keefe from No. 7.
 Miss Margaret Haggerty from No. 4.
 Miss A. Arata from No. 4.

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Exhibit R-2.

Miss Jemina Thaw from No. 4.
 Miss Margaretta Thaw from No. 4.
 Miss J. McCammond from No. 4.
 Miss Gertrude Pope from No. 4.

To SCHOOL No. 7:

10 Miss Dorothea Strothoff from Rue Elementary.
 Miss Louise Wissinger from Rue Elementary.
 Miss M. Connell from No. 3.
 Miss Ada Smith from No. 3.
 Miss M. Fitzgibbons from No. 3.
 Miss A. M. Beck from No. 5.
 Miss M. Wintermute from No. 6.
 Miss Lottie Schlank from No. 6.
 Miss E. Sweatman from No. 8.
 Miss Edna Roberts from No. 8.
 20 Miss Maud Giusto from No. 9.
 Miss Martha Pawlik from No. 9.
 Miss Frieda Seyd from No. 9.
 Miss Hilda Loehmer from No. 8.
 Miss Angela Kelly from No. 4.
 Miss A. Ginsburg from No. 9.

To SCHOOL No. 8:

Miss G. Trautwein from No. 7.
 Miss Wilma Deitering from No. 7.
 30 Miss Mae V. Kilduff from No. 7.
 Miss E. Ingleson from No. 4.
 Miss E. H. Kerls from No. 4.
 Miss E. L. Johnston from No. 4.
 Miss H. Larsen from No. 7.
 Miss Margaret Tallon from No. 7.

To SCHOOL No. 9:

Miss M. V. Johnston from No. 7.
 40 Miss N. L. Stephens from No. 7.
 Miss Lucy V. Mai from No. 7.

Exhibit R-2.

Mrs. L. E. Plante from No. 7.
 Miss Johanna Loewinger from No. 7.
 Miss Lucy A. Pindar from No. 7.
 Miss Cora B. Everett from No. 7.
 Miss Vera Schermall from No. 7.
 Miss A. Tallon from No. 4.
 Miss F. Miller from No. 4. 10

TO OFFICE OF SUPERINTENDENT:

Mrs. L. Buckley from No. 7.
 Miss F. Zatta from No. 7.

Respectfully submitted,

(Signed) D. S. KEALEY
 Superintendent.

On motion of Mr. Zatta, seconded by Mr. Hackett, report of the Superintendent of Schools concerning the transfers made June 28, 1932, was received. 20

On motion a recess was taken.

ON RE-ASSEMBLING

Present—Messrs. Butler, Druz, Duffy, Gaynor, Hackett, Koenig, Zatta, Vice-President Fitzsimon and President Laverty. 30
 Absent—None.

The following resolutions were presented:

By Mr. Koenig:—

Resolved. That the contract to furnish and deliver Coal, Wood, Janitor Supplies, Stationery and Supplies, Manual Training Supplies, Drawing and Art Supplies, Typewriter Supplies, Science Supplies, Medical Supplies and Miscellaneous Practice Supplies and Window Cleaning for 40

Exhibit R-2.

the School Year 1932-33, in accordance with the recommendation of the Committee on Supplies, be and the same are hereby awarded to Frank C. Moller Coal Co., W. D. Bindewald, Pioneer Paper Co., C. Muzzi & Co., Charles Weinacht Stationery Co., The Lining Store, Keuffel & Esser Co., General Lumber Co., W. T. Ellis, Inc., Central Scientific Co., General Biology Supply House, Schmidt & Kusseluk, Magnus Brush & Craft Co., and New Jersey Window Cleaning Co., for the articles named in the report of the Committee on Supplies and at the prices quoted therein; and be it further

10 Resolved. That the Secretary be and hereby is directed to prepare the necessary Bonds and Agreements for the faithful performance of the
20 respective contracts: and be it further

Resolved. That the President and Secretary are hereby authorized to execute said contracts for and in the name of this Board.

On motion of Mr. Koenig, seconded by Mr. Butler, the resolution was adopted by the following vote:

Ayes—Messrs. Butler, Druz, Duffy, Gaynor, Hackett, Koenig, Zatta, Vice-President Fitzsimon and President Laverty.

30 Nays—None.

Absent—None.

By Messrs. Butler, Laverty, Gaynor, Hackett, Druz, Koenig, Duffy, Zatta, and Fitzsimon.

Resolved. By the Board of Education that the action of the Superintendent of Schools, this day submitted, in transferring the following named Vice-Principal, Clerks, Teacher-Clerk and Teachers, to wit:

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Exhibit R-2.

TO DAVID E. RUE SCHOOL:

Miss Wilhelmina Sandman from School No. 7.

Mrs. Emily Alberts from School No. 7.

TO JOSEPH F. BRANDT SCHOOL:

Mrs. K. McMullen from School No. 4.

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Miss E. O'Rafferty from School No. 4—Teacher-Clerk.

Mrs. Nora Dougherty from School No. 7.

TO SCHOOL No. 3:

Miss Gertrude Bowes from School No. 4.

Miss I. E. Deitering from School No. 4.

Miss C. Worsthorn from School No. 7.

TO SCHOOL No. 4:

20

Miss Maud Evans from Brandt Elementary School.

Miss Ethel Berkowitz from School No. 3.

Mrs. Hetty Schultz from School No. 6.

Miss Anna Rumohr from School No. 6.

Miss Paula Scheinman from School No. 8.

Miss Violet Hults from School No. 8.

Miss Velia Ascione from School No. 8.

Miss Sadie Giaimo from School No. 8.

Miss J. E. Bonnard from School No. 8.

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Miss Helen Southard from School No. 9.

Miss Angelina Koch from School No. 9.

Miss Hazel M. Gallagher from School No. 9.

Miss M. Kovalewski from School No. 9.

Miss Sadie Schroeder from School No. 9.

Mrs. Clara W. King from School No. 9.

Miss Florence Barrett from School No. 9.

TO SCHOOL No. 5:

Miss Ida Erk from School No. 4.

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Exhibit R-2.

To SCHOOL No. 6:

- Miss Margaret Haggerty from School No. 4.
 Miss A. Arata from School No. 4.
 Miss Jemima Thaw from School No. 4.
 Miss Margaretta Thaw from School No. 4.
 10 Miss J. McCammond from School No. 4.
 Miss Gertrude Pope (Vice-Prin.) from No. 4.

To SCHOOL No. 7:

- Miss Dorothea Strothoff from Rue Elementary.
 Miss Louise Wissinger from Rue Elementary.
 Miss M. Connell from School No. 3.
 Miss Ada Smith from School No. 3.
 Miss M. Fitzgibbons from School No. 3.
 Miss A. M. Beck from School No. 5.
 20 Miss M. Wintermute from School No. 6.
 Miss Lottie Schlank from School No. 6.
 Miss E. Sweatman from School No. 8.
 Miss Enda Roberts from School No. 8.
 Miss Maud Giusto from School No. 9.
 Miss Martha Pawlik from School No. 9.
 Miss A. Ginsberg from School No. 9.
 Miss Frieda Seyd from School No. 9.
 Miss Hilda Loehmer from School No. 8.
 Miss Angela Kelly from School No. 4.

30 To SCHOOL No. 8:

- Miss G. Trautwein from School No. 7.
 Miss Wilma Deitering from School No. 7.
 Miss Mae V. Kilduff from School No. 7.
 Miss E. Ingelson from School No. 4.
 Miss E. H. Kerls from School No. 4.
 Miss E. L. Johnston from No. 4.
 Miss H. Larsen from School No. 4.
 Miss Margaret Tallon from School No. 7.

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Exhibit R-2.

TO SCHOOL No. 9:

Miss M. V. Johnston from School No. 7.
 Miss N. L. Stephens from School No. 7.
 Miss Lucy V. Mai from School No. 7.
 Mrs. L. E. Piante from School No. 7.
 Miss Johanna Loewinger from School No. 7. 10
 Miss Lucy A. Pindar from School No. 7.
 Miss Cora B. Everett from School No. 7.
 Miss Vera Schermall from School No. 7.
 Miss A. Tallon from School No. 4.
 Miss F. Miller from School No. 4.

TO OFFICE OF SUPERINTENDENT OF SCHOOLS:

Miss Florence Zatta (Clerk) from No. 7.
 Mrs. Laura Buckley (Clerk) from No. 7, be and
 the same is hereby ratified, confirmed and his ac- 20
 tion approved; and be it further

Resolved. That the transfer of Principal Harry
 S. Keefe from Public School No. 7, to Public
 School No. 6 be and the same is hereby ratified,
 confirmed and his action approved.

On motion of Mr. Hackett, seconded by Mr.
 Zatta, the resolution was adopted by the following
 vote:

Ayes—Messrs. Butler, Druz, Duffy, Gaynor,
 Hackett, Koenig, Zatta, Vice-President Fitzsimon 30
 and President Laverty.

Nays—None.

Absent—None.

By Messrs. Laverty, Gaynor, Butler, Hackett,
 Druz, Koenig, Duffy, Zatta and Fitzsimon.

Whereas, The number of pupils attending the
 public school system of the City of Hoboken has
 been very materially decreased and diminished,
 and the per capita cost per pupil exceeds the per 40
 capita cost per pupil of other municipalities in the

Exhibit R-2.

State, and the City of Hoboken is confronted with the public necessity of economizing, and the services of so large a force of teachers and principals are no longer required; and

10 Whereas, There should be a discontinuance of the methods heretofore existing and the adoption of new ones in their places, whereby Public Schools No. 4 and No. 7, in the School District of the City of Hoboken should, at this time, be permanently closed and the classes therein discontinued and abolished, and the pupils therefrom transferred to adjacent school buildings, whereby a thorough and efficient system of education will be maintained as heretofore; therefor be it

20 Resolved, That Public School No. 4, located on Park Avenue, between Fifth and Sixth streets, and Public School No. 7, located on the corner of Newark street and Park avenue, in the School District of the City of Hoboken, be and the same are hereby closed and the classes therein discontinued and abolished on Thursday, June 30th, 1932, at the close of the daily session of said schools.

On motion of Mr. Gaynor, seconded by Mr. Koenig, the resolution was adopted by the following vote:

30 Ayes—Messrs. Butler, Druz, Duffy, Gaynor, Hackett, Koenig, Zatta, Vice President Fitzsimon and President Laverty.

Nays—None.

Absent—None.

By Messrs. Laverty, Gaynor, Butler, Hackett, Druz, Koenig, Duffy, Zatta and Fitzsimon:

40 Resolved, By the Board of Education that the pupils heretofore attending classes in Public Schools No. 4 and No. 7, which have been ordered closed on June 30th, 1932, shall be transferred and allocated to such schools as will be most properly available for their education.

Exhibit R-2.

On motion of Mr. Druz, seconded by Mr. Hackett, the resolution was adopted by the following vote:

Ayes—Messrs. Butler, Druz, Duffy, Gaynor, Hackett, Koenig, Zatta, Vice-President Fitzsimon and President Laverty.

Nays—None.

Absent—None.

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By Messrs. Laverty, Gaynor, Butler, Hackett, Druz, Koenig, Duffy, Zata and Fitzsimon:

Whereas, The number of pupils attending the public school system of the City of Hoboken has been very materially decreased and diminished, and the per capita cost per pupil exceeds the per capita cost per pupil of other municipalities in the State, and the City of Hoboken is confronted with the public necessity of economizing, and the services of so large a force of teachers and principals are no longer required; and

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Whereas, Public Schools No. 4 and No. 7, in the School District of the City of Hoboken, have been ordered permanently closed and the classes therein discontinued and abolished as of June 30th, 1932, at the close of the daily session of said schools, and the pupils therefrom ordered transferred to adjacent school buildings in the said School District of the City of Hoboken; and

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Whereas, The said positions of the teachers and principals in said Public Schools No. 4 and 7, in the School District of the City of Hoboken, do not exist and are no longer necessary; therefor be it

Resolved, That the positions or offices of principals and teachers in Public School No. 4, in the School District of the City of Hoboken, held by the following named persons, to wit: John J. Griffin, Hetty Shultz, Anna M. Rumohr, Augusta C. Geayer, Camille Turpin, Rai I. Driesen, Hen-

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Exhibit R-2.

rietta Seyd, Viola Bryan, Ethel Berkowitz, Maud P. Evans, Janet E. Bonnard, Violet Hults, Velia Ascione, Sadie Glaimo, Paula Scheinman, Madeline Kovalewski. Sadie E. Schroeder, Hazel M. Gallagher, Clara W. King, Florence Barrett, Helen Southard, Angelina Koch, and in Public School No. 7, in the School District of the City of Hoboken, held by the following named persons, to wit: Mildred Wintermute, Arline Oldrin, Lottie Schlank, Anna M. Beck, Margaret C. Fitzgibbons, Ada Smith, Marie Connell, Dorothea Strothoff, Louise M. Wissinger, Beatrice Allen, Margaret M. Johnson, Edna F. Crane, Ethel Sweatman, Edna M. Roberts, Hilda Loehmer, Martha Pawlik, Anna Ginsberg, Frieda E. Seyd and Maud Giusto, be
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 and the same are hereby permanently abolished and the duties thereof dispensed with, discontinued and terminated on June 30th, 1932, at the close of the daily session of said schools, and the services of the aforementioned persons are hereby terminated and dispensed with on June 30th, 1932, at the close of the daily session of said schools.

On motion of Mr. Hackett, seconded by Mr. Koenig, the resolution was adopted by the following vote:

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 Ayes—Messrs. Butler, Druz, Duffy, Gaynor, Hackett, Koenig, Zatta, Vice-President Fitzsimon and President Laverty.

Nays—None.

Absent—None.

By Messrs. Butler, Hackett, Druz, Koenig, Duffy, Zatta, Gaynor, Laverty and Fitzsimon.

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 Resolved, That, for the purpose of economizing, the positions or offices of Medical Inspectors held by Dr. M. S. Granelli, Dr. D. B. Pindar and Dr. Thomas F. Coughlin; of Optician, held by Dr. T.

Exhibit R-2.

Richard Paganelli; and of School Nurse, held by Ada H. Havens, be and the same are hereby permanently abolished and the duties thereof dispensed with, discontinued and terminated on June 30, 1932.

On motion of Mr. Butler, seconded by Mr. Druz, the resolution was adopted by the following vote: 10

Ayes—Messrs. Butler, Druz, Duffy, Gaynor, Hackett, Koenig, Zatta, Vice-President Fitzsimon and President Laverty.

Nays—None.

Absent—None.

By Messrs. Laverty, Gaynor, Butler, Hackett, Koenig, Druz, Duffy, Zatta and Fitzsimon.

Resolved, That, for the purpose of economizing, the Custodian of School Money, William H. Giffert, no longer, after July 1st, 1932, shall receive any salary whatsoever for his services as such Custodian. 20

On motion of Mr. Gaynor, seconded by Mr. Hackett, the resolution was adopted by the following vote:

Ayes—Messrs. Butler, Druz, Duffy, Gaynor, Hackett, Koenig, Zatta, Vice-President Fitzsimon and President Laverty.

Nays—None. 30

Absent—None.

By Messrs. Laverty, Gaynor, Butler, Hackett, Druz, Koenig, Zatta and Fitzsimon:

Resolved, That the Supervisors of Instruction, to wit: Ella M. Smith, E. C. Hiney and Mary K. Flattery, shall, on and after July 1st, 1931, be relieved of any further supervising work and shall perform the duties of teachers in classrooms and 40

Exhibit R-2.

that, from and after July 1st, 1932, they shall each receive a salary of \$2,460 per annum.

On motion of Mr. Koenig, seconded by Mr. Druz, the resolution was adopted by the following vote:

10 Ayes—Messrs. Butler, Druz, Duffy, Gaynor, Hackett, Koenig, Zatta, Vice-President Fitzsimon and President Laverty.

Nays—None.

Absent—None.

By Messrs. Laverty, Gaynor, Butler, Hackett, Druz, Koenig, Duffy, Zatta and Fitzsimon:

20 Resolved, That the Teacher-Clerks, to wit: Anna D. Ryan, Georgine Gonzales, Ella O'Rafferty, Margaret Ford, Julia Hauser and Mabel Harvey shall on and after July 1st, 1932, be relieved of any further Teacher-Clerk work and shall perform the duties of Teachers in classrooms.

On motion of Mr. Zatta, seconded by Mr. Hackett, the resolution was adopted by the following vote:

Ayes—Messrs. Butler, Druz, Duffy, Gaynor, Hackett, Koenig, Zatta, Vice-President Fitzsimon and President Laverty.

30 Nays—None.

Absent—None.

By Messrs. Laverty, Gaynor, Butler, Hackett, Druz, Koenig, Duffy, Zatta and Fitzsimon:

Resolved, That the salaries of each of the Vice-Principals of Elementary Schools be and the same are hereby fixed at \$2,460 per annum, commencing July 1st, 1932.

40 On motion of Mr. Hackett, seconded by Mr. Druz, the resolution was adopted by the following vote:

Exhibit R-2.

Ayes—Messrs. Butler, Druz, Duffy, Gaynor, Hackett, Koenig, Zatta, Vice-President Fitzsimon and President Laverty.

Nays—None.

Absent—None.

By Messrs. Laverty, Gaynor, Butler, Hackett, Druz, Koenig, Duffy, Zatta and Fitzsimon: 10

Resolved, That, for the purpose of economizing, the position of Angela Kelly, known as "Prang Work," in the Public Schools of the School District of the City of Hoboken, be and the same is hereby abolished, and the duties thereof dispensed with and terminated on June 30th, 1932, and that the services of said Angela Kelly are hereby terminated and dispensed with on said date.

On motion of Mr. Gaynor, seconded by Mr. Koenig, the resolution was adopted by the following vote: 20

Ayes—Messrs. Butler, Druz, Duffy, Gaynor, Hackett, Koenig, Zatta, Vice-President Fitzsimon and President Laverty.

Nays—None.

Absent—None.

By Mr. Zatta:

Resolved, That the following transfers be made on the books of the Secretary and Custodian of School Moneys: To Current Expenses: From Anticipated Revenues, \$18,385.69. To Repairs and Replacements: From Current Expenses, \$17,144.91. 30

On motion of Mr. Zatta, seconded by Mr. Duffy, the resolution was adopted by the following vote:

Ayes—Messrs. Butler, Druz, Duffy, Gaynor, Hackett, Koenig, Zatta, Vice-President Fitzsimon and President Laverty.

Nays—None. 40

Absent—None.

Exhibit R-2.

The following claims, approved by the Business Manager and reported correct by the proper Committees, were presented and read:

	August Hartkorn, engrossing diplomas..	\$ 45.00
	C. Muzzi & Co., janitor supplies.....	8.90
10	J. F. O'Hara & Son, Inc., hire of camp chairs	20.00
	Public Service Co-Ordinated Transport, bus service—June.....	216.00
	John J. Repetto, insurance premium—No. 6.....	33.13
	William Tomford, music—High School Commencement	70.00
	Fred E. Vogel, decorations, Brandt Jr. High Graduation.....	15.00
20	W. P. Sutton, work on clocks and bells—No. 3.....	56.49
	A. W. Meyer, groceries—June—Domestic Science Department	14.97
	Earl F. Bosworth, hire of camp chairs....	24.00

On motion of Mr. Butler, seconded by Mr. Koenig, the reports of the Committees were approved and adopted and the claims were ordered paid by the following vote:

30 Ayes—Messrs. Butler, Druz, Duffy, Gaynor, Hackett, Koenig, Zatta, Vice-President Fitzsimon and President Laverty.

Nays—None.

Absent—None.

There being no further business, on motion the Board adjourned.

JOHN F. LEWIS,
Secretary.

Decision of the Commissioner of Education.

ANGELINA KOCH DOWNS, *et als.*,
Petitioners,

vs.

BOARD OF EDUCATION OF THE
DISTRICT OF HOBOKEN,
Respondent.

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the Commissioner
of Education.

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The petitioners had been employed for more than three years prior to June 30, 1932 as teachers in the public schools of Hoboken, and it is admitted that they were protected by the provisions of Chapter 243, P. L. 1909, the Teachers' Tenure of Office Act.

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During the latter half of the school year 1931-32 Mr. James P. Lavery, president of the board of education, wrote several letters to the married and the non-resident teachers in which he censured them for continuing to teach in the Hoboken schools because of what he contended to be a divided attention between home and school on the part of the married teachers, and a lack of loyalty to the community on the part of those who were non-residents. These letters were signed by Mr. Lavery in his official capacity and his report to the board on this subject is contained in the minutes of the board meeting of April 18, 1932. In the final letter to this group of teachers, under date of June 23rd, the last two sentences read:

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“The recalcitrant ‘group’ must fully meet the April letter requirements. Evasion will not be countenanced.”

Within a week after this letter was sent to the teachers, events occurred as follows: Twenty-six

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of the petitioners, who were married or non-residents and had received the above mentioned letters, were transferred from other buildings to Schools Nos. 4 and 7; the resident unmarried teachers in those schools were transferred to other buildings; the board of education abandoned Schools Nos. 4 and 7 and abolished the positions of all teachers then assigned to those buildings; and the appellants were notified that their positions were abolished and they were subsequently denied compensation for the months of July and August which they contend is a part of their salary for the school year 1931-32.

The records for the school year 1928-29 shows 6,704 pupils enrolled in the first six grades with a teaching staff of 205; whereas, in the school year 1931-32 there were 5,936 pupils so enrolled with 196 teachers. During these years there was a gradual diminution of 768 pupils with a decrease in the teaching staff of only nine teachers. The testimony discloses an impaired financial condition of the city and consequently a need for the reduction of municipal and educational expenditures.

The points to be decided in this case are:

- 30 (1) Did the board of education act within its authority in abandoning Schools Nos. 4 and 7, and in abolishing a number of teaching positions?
- (2) Were transfers of the teachers to Schools No. 4 and 7 legal when made immediately prior to the abandonment of these buildings?
- 40 (3) Did the board legally abolish the positions of those married teachers, who had been previously assigned to these buildings, where

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there is no evidence to indicate that their assignment was for the purpose of terminating their services?

(4) When the positions of teachers protected by the Tenure of Office Act are abolished, are those teachers entitled to fill existing vacancies in the schools, or to displace others not protected by the Tenure Act? 10

(5) Are all teachers in this case entitled to salary for July and August, 1932, because of having completed the work for the school year 1931-32?

(1) The Teachers' Tenure of Office Act (Chapter 243, P. L. 1909) provides:

“Nothing herein contained shall be held to limit the right of any school board to reduce the number of principals or teachers employed in any school district when such reduction shall be due to a natural diminution of the number of pupils in said district.” 20

There is no evidence of bad faith in the board's decision to abandon buildings Nos. 4 and 7 and in selecting these rather than other buildings. The natural diminution of approximately 750 pupils within the last three years, and the present financial condition of the district justify the reduction in the teaching corps. It was within the discretion of the board whether, in reorganization, it should discontinue teaching positions in various buildings or abandon entire buildings. In cases where tenure protection has been provided for employees and in which the law has no provisions relating to a decrease in the number of positions the courts have consistently held that tenure does 30 40

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not survive a good faith abolition of a position for purposes of economy. (*Wisner vs. Neptune Township Board of Education*, p. 873, 1932, compilation *New Jersey School Law Decisions*.) Justice Dixon, in writing the opinion of the Supreme Court in the case of *Sutherland vs. Jersey City*, 60 N. J. L. 436, said:

“But it is settled that statutes of this nature are not designed to prevent the abolition of an office and the transfer of its duties to another official, when such course is taken bona fide for economical reasons or for the promotion of greater efficiency in the public service.”

20 The Supreme Court in the case of *Boylan vs. Newark*, 53 N. J. L. 133, held that the Act of March 25, 1885 (P. L. 163), regulating the tenure of office in police departments does not forbid the abolition of an office or rank in the department for the purpose of reducing public expenses. It therefore appears that the board was within its legal rights in abandoning schools Nos. 4 and 7 and abolishing the teaching positions therein.

30 (2) Chapter 1, P. L. 1903, S. S., Section 68, reads:

“No principal or teacher shall be appointed, transferred, or dismissed . . . except by a majority vote of the whole number of members of the board of education.”

40 The testimony of the Secretary shows the transfers of teachers to Schools Nos. 4 and 7 were made by the Superintendent and ratified by a majority vote of the whole number of members of the board

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of education. Only married or non-resident teachers were transferred to Schools Nos. 4 and 7, and these transfers were made by the board at the meeting of June 29 at which it voted to abandon the buildings. All of the teachers affected had received letters from the president of the board indicating that the continuation of the services of married or non-resident teachers was objectionable and virtually demanding the relinquishment of their positions. The transfer of teachers under tenure from positions in which they had completed the work of the school year, and in many cases where they had been employed for a number of years, to other buildings, the abandonment of which at that time was unofficially determined, shows very clearly that the transfer of the teachers was for the purpose of placing them in a situation which would appear to legalize the termination of their services. Since it is evident that these teachers were transferred with the purpose of terminating their services, they were, therefore, illegally transferred and accordingly their positions were not abolished.

(3) Upon the abandonment of Schools Nos. 4 and 7 the board of education transferred the pupils not as class groups, but distributed them among the grades in other buildings and consequently abolished the positions of all teachers assigned to Schools Nos. 4 and 7. The unmarried, resident teachers, formerly employed in the above mentioned schools were transferred to other positions a few minutes before the positions they held in Schools Nos. 4 and 7 were abolished, but this was not done in the cases of married and non-resident teachers. When it is determined that positions are to be abolished a board of educa-

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10 tion may retain the services of any teachers occupying such positions, but it is not required to do so. The board may select within its discretion those employees to be retained provided there is no sex discrimination as prohibited by Chapter 238, P. L. 1925. Discrimination may be evident in a board's retention of teachers as in original appointments. Where teachers do not have a legal right to positions, a board may select all married or all single teachers. It may be unfortunate for those teachers who held positions in the abandoned schools, but when these buildings were closed and pupils distributed among other existing classes, those teaching positions ceased to exist. The fact that the board retained by transfer some teachers whose former positions were later abolished does not give the others any rights. The positions of these teachers, who had been employed in Schools Nos. 4 and 7, were legally abolished.

20 (4) The Commissioner cannot agree with the contention of counsel for petitioners that upon the good faith abolition of positions of teachers protected by the Tenure of Office Act, such employees have a legal right to fill vacancies or to displace teachers not protected by the Act when their certificates qualify them for such positions. If the contention is sound that teachers are elected and serve as "teachers" only, and that they do not hold definite positions, then a board, in reducing the number of teachers for reasons of diminution of pupils, may dismiss within its discretion a reasonable number of such employees without consideration of apparent rights of individuals; under this contention and in the absence of proof of sex discrimination prohibited by statute, the

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service of all appellants could have been legally terminated. However, it is a recognized practice that in the contract of employment between a board of education and a teacher, the term "teacher" is used in the agreement without reference to the specific work for which she is engaged. Under the broad term "teacher" parol evidence would be admissible to establish that the major work of the employee was clearly understood by both parties at the time of signing the contract. Even if the employee's principal duties were not so established, her first assignment would determine her position in the elementary school or her major field of work in the secondary school. When the position is established, such an employee may not be transferred to another position except by a majority vote of the entire membership of the board of education. If the law required that a transfer be made at the option of the teacher, then pupils might be handicapped with poor instruction until the board of education could secure sufficient evidence to prove the inefficiency of the teacher and dismiss her for that cause. That a teacher under tenure, whose position is abolished is not legally entitled to another position is clearly established by the decision of the Commissioner which was affirmed by the State Board of Education in the case of *Seidel vs. Ventnor City Board of Education* (now on certiorari to the Supreme Court and printed in *State of Case*). Teachers are assigned, transferred or engaged by boards of education to fill definite positions and are known as teachers of specified high school subjects, Teachers of Fifth Grade, Teachers of Kindergarten, etc. They are not engaged as general practitioners for any work for which a certificate might qualify them. The pur-

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Decision of the Commissioner of Education.

pose of the Act is to protect from dismissal for reasons of prejudice, passion, politics, or unjust motives those teachers who have served a district during a probationary term. The Act is not intended to guarantee perpetuity of employment regardless of existing conditions in the school.

10 Justice Scudder in delivering the opinion of the court in the case of *Fire Commissioners of the City of Newark vs. Lyon*, 53 N. J. L. 632, in speaking of tenure acts said:

“These statutes are not intended to give perpetuity to officers in this department, but for the protection of the incumbents while the offices continue.

20 “* * * the tenure of office is qualified by the continuance of the office.”

A teacher whose position is abolished cannot demand a transfer to another position. The right of transfer lies solely within the discretion of the board of education.

30 (5) All of the appellants in this case were, prior to June 30, 1932, protected by the provisions of the Teachers' Tenure of Office Act. Each was entitled to a definite annual salary. The records of their employment indicate that payment for July and August constitutes a part of the annual salary for the preceding fiscal year. Under this plan the teachers had not received at the close of any school year on June 30th the full amount of their annual salaries. At the close of the school year, the teachers had performed the services which entitled them to the full amount of their respective annual salaries. Each appellant, who has not received her full annual salary since Sep-

40 tember 1, 1931, is entitled to the balance, less de-

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duction due to the Teachers' Pension and Annuity Fund.

The Board of Education of the City of Hoboken legally abolished the positions in Schools Nos. 4 and 7. The teachers who had been assigned to these buildings prior to June 29, 1932, are not entitled to displace other teachers not protected by the Tenure of Office Act; but the board is hereby directed to reinstate in positions from which they were transferred all appellants who were assigned to Schools Nos. 4 and 7 at the meeting of June 29, 1932, with salary from September 1, 1932, and to pay to all appellants salary installments for July and August, 1932. 10

CHARLES H. ELLIOTT,
Commissioner of Education. 20

December 15, 1932.

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Decision of State Board of Education.

10	<p style="text-align: center;">ANGELINA KOCH DOWNS and RAI DRIESEN FLECHTNER, <i>et als.</i>, Appellants,</p> <p style="text-align: center;"><i>vs.</i></p> <p style="text-align: center;">BOARD OF EDUCATION OF THE DISTRICT OF HOBOKEN, Respondent.</p>	<p style="font-size: 3em; line-height: 1;">}</p> <p style="text-align: center;">Decision of State Board of Education.</p>
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20 This is an appeal by the Board of Education of Hoboken from a decision of the Commissioner of Education, wherein he orders:

(1) The reinstatement of 26 teachers whose services had been terminated by the Board of Education on June 30, 1932, by reason of the natural diminution of the number of pupils in the schools of Hoboken, and to effect economy in the cost of operating its schools, and

30 (2) The payment of salary to said 26 teachers, and to 8 other teachers in another group, for the months of July and August, 1932.

The teachers whose services were terminated are divided into two groups, one consisting of 26 teachers who, on June 29, 1932, had been transferred from various schools in Hoboken to Schools Nos. 4 and 7; and the other consisting of 8 teachers, including a principal, who had, before that date, served as teachers in the two schools named.

40 The Commissioner of Education held that the services of the second group, the eight teachers who had served in Schools Nos. 4 and 7, prior

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to June 29, 1932, were lawfully terminated. They appeal from that part of the decision which so holds.

By stipulation of counsel, it was agreed that the evidence taken should apply and be considered in connection with both groups.

The evidence taken before the Commissioner discloses that in the years 1928 and 1929, there were nine elementary schools in Hoboken, with 6,704 pupils. In the year 1929-1930, there was a decrease of 219 pupils; in the year 1930-1931, a decrease of 270 pupils; in the year 1931-1932, a decrease of 271 pupils under the previous year, so that to the end of the school year of 1932, there were 760 pupils less in the school district than in the year 1928-1929. 10

In the school year 1928-1929, there were 205 teachers in the elementary schools. In the school year 1929-1930, although there was a decrease of 219 pupils under the previous year, there were 204 teachers. In the year 1930-1931, although there were 270 pupils less than the previous year, the number of teachers was the same, viz: 204. In the year 1931-1932, although there was a decrease of 271 pupils under the previous year, the number of teachers was 196. The decrease in teachers from 1928 to 1932, inclusive, was 9, although the decrease in the number of pupils was 760. That the per capita cost in Hoboken for teachers' salaries for April, 1932, was \$112.36; which was the highest per capita cost in Hudson County, and second highest in the State of New Jersey, in cities comparable with Hoboken. That the relative positions and per capita cost had existed for at least five years past. That the diminution in the number of pupils was a natural diminution, due entirely to a loss of population. That the popula- 20 30 40

Decision of State Board of Education.

tion of Hoboken ten years ago was near 75,000, and at the present time is approximately 56,000, a loss, in round numbers, of about 19,000. It further appears that on June 30, 1931, the City of Hoboken, which also comprises the school district of Hoboken, had on deposit with the Steneck Trust Company of Hoboken, in various accounts, the sum of \$1,259,713.00, which represented all the moneys of the city available for municipal and educational purposes. On that date, the Steneck Trust Company was closed by the Commissioner of Banking and Insurance of New Jersey, and still remains closed, and neither the city nor the board of education have been able to obtain any of said moneys up to the present time. That the closing of the said bank had entailed great difficulties upon the city, and it was difficult to raise money wherewith to pay the current expenses of the city and to provide means for the operation of its schools. At the time of the closing of the bank, checks and salary warrants for the teachers and municipal employees had been drawn and issued and were not honored or paid, due to the closing of the bank, and it became necessary for the city, at once, to borrow money to meet these outstanding debts and salary warrants. That from that time on the city has been obliged to borrow the necessary moneys for the payment of the teachers and other municipal employees. These borrowings were made from several banks in the City of Hoboken, at the highest interest rate allowed by law. The city also induced some of its taxpayers to pay their taxes in advance, allowing them discounts. These borrowings, for which tax anticipation notes and bonds had been issued, amounted to \$1,752,000.00. In December, 1931, the advertised tax revenue bonds for sale in the amount of

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\$1,975,000.00, but failed to receive any bid therefor. At that time the city had outstanding, in tax revenue and tax anticipation notes and bonds, \$2,749,000.00. On January 6, 1932, the Board of education received from the State, \$266,766.07, school moneys, which enabled the board of education to pay salaries for January, February, and March, 1932. On and before April 7, 1932, the city was able to sell emergency bonds in the sum of \$590,000.00, and tax revenue bonds in the sum of \$460,000.00, which moneys were used to reduce outstanding obligations. In June, 1932, the city was able to procure \$175,000.00, by the sale of tax anticipation bonds, and this money, together with tax collections and the prepayment of 1932 taxes, enabled the city to meet the requirements of the schools and the city. That during the last few months of the school year 1931-1932, the bankers who held the notes and bonds of the city, were much concerned about the city's financial situation, and had declined to make any additional loans. On June 27, 1932, a conference was held between the bankers and their representatives, and the city, in an effort to obtain a renewal of outstanding bonds and notes that were due on June 30, default in the payment of which would seriously impair the city's credit. At this conference the holders of the city's obligations insisted that reduction be made in the cost of operating the schools and otherwise effecting economy in public expenditures. As a result of this conference, the city commissioners met with the president and secretary of the board of education and related to them the demands of the bankers and other holders of the city's obligations, that the cost of operating the schools be reduced. The result of this last conference was that it was de-

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10 cided to close two schools which it was estimated
would effect a yearly saving of about \$200,000.00;
and a saving, during the remainder of the year
1932, of \$100,000.00. To carry out this decision
of the city commissioners and the representatives
of the board of education, the board of education
met on June 29, 1932. At this meeting the superin-
tendent of schools submitted a communication to
the Board, dated June 28, 1932, in which he set
forth that he had made transfers, as of that date,
of principal, vice-principal, clerks, teacher-clerks
and teachers from and to various schools, subject
to the approval of the board of education, which
action of the superintendent was thereupon rati-
fied and approved by unanimous vote. The 26
20 teachers transferred to schools Nos. 4 and 7, were
included in the foregoing action. Furthermore,
a resolution was unanimously adopted, reciting
that whereas the number of pupils attending the
public schools of Hoboken had been materially de-
creased and diminished, and the per capita cost
per pupil exceeds the per capita cost per pupil of
other municipalities in the State, and the city be-
ing confronted with the necessity of economizing,
and the services of so large a force of teachers
and principals being no longer required, etc., it
30 was resolved that Public School No. 4 and Public
School No. 7, be closed, and the classes therein
discontinued and abolished on June 30, at the
close of the daily session of said schools. An-
other resolution was adopted, providing that the
pupils theretofore attending classes in Public
Schools Nos. 4 and 7, should be transferred and
allocated to such schools as would be most avail-
able; and another resolution which recited that
whereas, Public Schools Nos. 4 and 7 had been
40 ordered permanently closed, and the classes there-

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in discontinued and abolished as of June 30, 1932, and the pupils therefrom ordered transferred to adjacent school buildings, and whereas, the positions or offices of principals and teachers of Public Schools Nos. 4 and 7, held by the following named persons, (naming them), (including the 34 involved in this appeal) be and the same are hereby permanently abolished, and the duties thereof dispensed with and discontinued and terminated on June 30, 1932, and the services of the aforementioned persons are hereby terminated and dispensed with on June 30, 1932. At the same meeting, another resolution was adopted, that to economize, the positions or offices of three medical inspectors, an optician and a school nurse be abolished, and the duties thereof dispensed with. Another resolution that for the purposes of economy, the school custodian should thereafter receive no salary for his services, and another dispensing with the services and terminating the positions of three supervisors. Salaries of various other incumbents of positions were changed, and the position of a teacher doing "Prang Work" was also abolished.

It further appears that the president of the Hoboken Board of Education is one James P. Laverty. Mr. Laverty has been president for the past twenty years. He was reelected in February, 1932, and in addressing the board upon his election at that time, he referred to the economic problems facing the board, and, among other things, said:

"A disturbing factor in school affairs is the 39 married women teachers. There are 123 unmarried young women on the certified monitress list who seek teacher placement. I

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contend that proper mental and home responsibility impairs the teaching ability of the mercenary wife who persists in pursuing a pedagogical occupation.

10 “Most disloyal among those in our educational field is the man or woman born in Hoboken, educated in its schools with public funds, entrenched in a permanent teacher position, who deserts the City and removes to a suburban town. Such an individual existing on the wage provided by merchants and other taxpayers, fail to contribute to maintain either business or property in this municipality.”

20 On April 12, 1932, Mr. Lavery, on stationery of the board of education, and signed by him above the designation, “President, Board of Education”, wrote letters addressed, “Dear Teacher”, which he caused to be manually delivered to married teachers, resident and non-resident of the City of Hoboken, and to unmarried non-resident teachers of the city, in one of which he said, to the non-resident teachers:

30 “Ethically and legally you owe a debt of habitation in the place where your official duty lies. Practically one-third of the pedagogic staff reside beyond the limits of Hoboken—you among the number—who in one year remove out of the city, a wage total of \$389,000.

40 “A pretence of taking up abode in Hoboken will not suffice the purpose. An established genuine home is the objective of the authorities. May retrospection persuade you to pay this city the habitation obligation you owe it.”

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In another, among other things, he stated:

“Competing as a married woman, you—and husband—mercenaryly deprive a mistress, teacher appointment. In addition thereto you use in another municipality the money earned here. Desertion of the city which fostered and progressed your affairs is despicable; your continuing to function as a married woman teacher, especially in this season of dire distress consequent to wide spread business depression merits censure. You practically usurp a place which should be occupied by an unmarried woman teacher eligible. Moral sensibility of the injustice done should motivate your suspension of school activities.”

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On June 23, 1932, Mr. Lavery again issued a letter on board of education stationery, addressed, “Dear Teacher”, and signed by him above the designation, “President, Board of Education”, which states, among other things:

“Reiterated is criticism contained in a letter mailed last April to a ‘group’ of teachers. From a number of them came written or spoken acknowledgment. Some ignored the letter. Others exasperated, whispered words of derision. * * * The ‘mercenary’-minded sustain defiance—the married woman teacher incubus shall be lifted from the mistress body force. Indefensible is refusal to help Hoboken extricate itself from difficulties incident to protracted business recession which has made for untenanted premises, shattered commercial trade, and restricted municipal financing.”

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“The teacher constant in devotion to Hoboken should urge associates recreant in their duty, to give complete allegiance to this school district. The recalcitrant ‘group’ must fully meet the April letter requirements. Evasion will not be countenanced.”

10 The minutes of a meeting of the board of education, held on April 18, 1932, contain the following excerpt:

President Laverty informed the board of the result of a recent survey made in the supervisory and teaching forces of the schools. In this connection he submitted the following data:

20 A number of the public school supervisory and teaching staff do not live here.

This board two months ago directed attention to this truth.

Each of the educator force was provided with a “Query card.” Order was given to disclose certain facts of school life.

30 “The factual data furnished has been analyzed and tabulated; 394 individuals are on the qualified supervisory teacher roster; 373 of them in youth were mentally trained in Hoboken schools; 95% of our educators are ‘Home talent’—a proportion unequaled elsewhere in New Jersey; (Hoboken school children have a high rating in efficiency—it shall be maintained); 139 of the pedagogic force reside beyond the limits of Hoboken; 127 of these 139 total—former residents—with few exceptions were born here; 18 married women teachers are numbered among the ‘non-residents’; 12 of the non-residents never lived here—(5 appointed before 1914, 7

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named in 1916-1921). (The periods of activity; pre-war duration, post-war—created a teacher supply scarcity.) Every educator appointed since 1925 was—in youth—a pupil in Hoboken schools; \$389,000.00 of wage is annually removed from Hoboken by the 139 non-resident teachers. Communications mailed to the alleged ‘ethical’ transgressors comprehend ‘four’ groupings: Non-residents—‘those who deserted the City of their birth’—‘those who never lived in Hoboken,’ married women teachers—‘non-residents’—also ‘resident.’ The State Public Instruction Law gives ‘tenure’ to an established qualified teacher; 255 of the educational force are true loyal citizens; honest with their conscience; with deliberate intent participate in whatsoever confronts them in home life; take interest in civic affairs; complacently meet care, anxiety or prosperity which emergency may create; find happiness here; thrive in health, and are faithful to their cause—the child in the classroom. 10 20

“Consequent to the comments of this board concerning the forsaking of the City of Hoboken by public school teachers, report is made of the return of eight teachers who have once again taken up genuine permanent home in this community.” 30

All the teachers involved in both appeals had served in the Hoboken district more than three years, and were therefore under the protection of the Tenure of Office Act.

The Commissioner concluded that the transfer of the 26 teachers from various schools to Schools Nos. 4 and 7 was illegal, in that it was for the purpose of placing them in a situation which would 40

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appear to legalize the termination of their service, and since it was evident that the teachers were transferred for such purpose they were therefore illegally transferred, and their positions not abolished.

10 With reference to the eight teachers who had served in Schools Nos. 4 and 7 prior to June 29, 1932, and who were not transferred, the Commissioner held that their services were legally terminated. This conclusion rests upon the reasoning that only the positions of teachers in Schools Nos. 4 and 7 were legally abolished. In his view, the teachers who were transferred to Schools Nos. 4 and 7 on June 29, 1932, did not hold such positions, their transfer having been illegal.

20 The powers of a board of education in the management and control of a school district are very broad. It is invested with the supervision, control and management of the public schools and public school property in its district. It may make, amend and repeal rules, regulations and by-laws, not inconsistent with the school law, or with the rules and regulations of the State Board of Education, among other things, for the employment and discharge of principals and teachers. By Section 68 of the School Law, it is authorized by a majority vote of the whole number of its members, to appoint, transfer or dismiss principals and teachers. These powers are limited as to the employment and discharge of teachers only to the extent therein provided by the Teachers' Tenure Law, Chapter 243, P. L. 1909. 30 The right to transfer a teacher seems to rest, therefore, wholly in the discretion of the board of education. Conceding that when the 26 teachers in question were transferred from their various schools to Schools Nos. 4 and 7, the board of 40

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education had already determined to close those schools, did that purpose make the transfers illegal? We think not. The board had unlimited right to transfer; it also had the right, as we shall hereafter declare, to dispense with the services of such number of teachers in the district as it should, in good faith, deem necessary to effect the economies which its financial situation demanded, and whose services were no longer necessary because of the diminution in the number of pupils. It could have selected the teachers whose services were to be terminated from the school district at large. It chose to so select such teachers, and, before terminating their employment, transfer them to Schools Nos. 4 and 7 to fill the places of teachers transferred from those schools. It is argued, in behalf of the teachers, that such transfer is permeated with bad faith. That although the board had the right to terminate their service, by reason of the diminution of pupils, and in order to effect economy in the operation of the school system, the fact that only married and non-resident teachers were so selected is an abuse of the powers and discretion of the board of education and gross discrimination. As evidence of such unlawful discrimination and abuse of its power by the board, counsel for the teachers refers to the letters written to married and non-resident teachers by Mr. Laverty, the president of the board. Mr. Laverty was evidently a man who entertained positive views. Upon assuming the office of president of the board, to which he was elected in February, 1932, he addressed the board and stated his views with reference to teachers who did not reside in the school district, and teachers who were married. The board, however, took no action. Mr. Laverty evidently also

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subsequently took it upon himself to make a survey of the conditions in the school district with reference to the number of non-resident and married teachers employed. He wrote the letters from which we have quoted and personally had them delivered to married or non-resident teachers, and, in June, 1932, he reported to the board the results of such survey. The board took no action on such report, although the secretary included it, or the substance thereof, in its minutes. The secretary of the board testified before the Commissioner that the board at no time took any action with regard to non-resident and married teachers; did not authorize Mr. Laverty to make a survey; to send communications to teachers, or to do anything in that regard. We are satisfied that what Mr. Laverty did was of his own motion and was not authorized by the board. It does appear, however, that the board was influenced by his views. It is improbable that the board was ignorant that the superintendent had selected for transfer only non-resident and married teachers, nor is it likely the superintendent made such selection without instructions. The question arises, whether, notwithstanding the members of the board may have acquiesced in the views of Mr. Laverty, and the action of the superintendent in accordance therewith in selecting teachers to be separated from the service, that affects the legality of the transfers. We are satisfied the controlling purpose of the board was to effect economy and to terminate the service of the number of teachers no longer necessary because of the diminution of pupils. The board had unlimited discretion in the selection of the teachers to be dropped. They chose to select such as were married and/or non-resident, giving preference in

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continued employment to residents of the school district and to those who would normally be dependent upon themselves for a livelihood. We cannot say to do so was an abuse of discretion or evidence of bad faith (*State vs. Kennelly* (Conn.), 55 Alt. Rep. 555).

Can we go behind the record of the proceeding and the action of the board to question the motives which actuated its members? The general principle appears to be against such proposition. 10

“So long as a * * * board of education * * * acts within the authority conferred upon * * * it by law, the courts are without power to interfere with, control or review * * * its action and decisions in matters involving the exercise of discretion, in the absence of clear abuse thereof * * *, nor is the wisdom or expediency of an act, or the motive with which it was done, open to judicial inquiry or consideration, where power to do it existed.” 56 C. J., page 342. Citing numerous authorities. 20

“Even though motive was corrupt or the act was done for the purpose of spite or revenge, an action of a board is immune from judicial interference if it is within the range of the board’s legal discretion.” (*Iverson vs. Springfield, etc.*, Union Free High School Dist. 186 Wis. 342; 202 N. W. 788. 30

The right of the board to transfer teachers being absolute, the fact the board had in view the closing of the school to which the teacher was transferred, and to terminate her employment does not affect the legality of such transfer, and we conclude that the transfers of the 26 teachers to Schools Nos. 4 and 7, were lawful. 40

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The Teachers' Tenure Law (Chapter 243, P. L. 1909), provides:

10 "The service of all teachers, principals, supervising principals of the public schools in any school district of this State, shall be during good behavior and efficiency, after the expiration of a period of employment of three consecutive years in that district, unless a shorter period is fixed by the employing board; * * * no principal or teacher shall be dismissed or subjected to reduction of salary in the said school district, except for inefficiency, incapacity, conduct unbecoming a teacher or other just cause, and after a written charge of the cause or causes shall have been preferred against him or her, etc."

20 "Nothing herein contained shall be held to limit the right of any school board to reduce the number of principals or teachers employed in any school district, when such reduction shall be due to a natural diminution of the number of pupils in said school district."

30 It cannot be disputed that the school district of Hoboken had suffered a natural diminution in the number of pupils, it appearing conclusively that in the past five years the number of pupils in the elementary schools had decreased by 760, while the number of teachers during the same period had decreased only 9. Neither can it be disputed that the school district was in a position where every effort to economize was necessary. The termination of the services of the 34 teachers involved in this appeal was based on said considerations, and they are appropriately recited in the preambles of the resolutions of the board. It is
40 unnecessary to quote authorities for the proposi-

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tion that where reductions in personnel are made and positions abolished in good faith, for reasons of economy, such measures are lawful. Irrespective of considerations of economy, however, in the present case the diminution in the number of pupils was ample reason for reducing the number of teachers. Section 3 of the Tenure of Office Act, above quoted, effectively left in boards of education, when the conditions therein mentioned exist, the unlimited authority they had before the enactment of the Tenure Law. Before the enactment of the Tenure of Office Law, boards of education could discharge from its employ, principals and teachers at will, except in so far as it was bound by rights of contract. Counsel for the teacher-appellants maintains that the abolition of their positions was not in good faith because respondent wished to eliminate non-resident and married teachers. We have dealt with this argument in our consideration of the legality of the transfers of the teachers made in contemplation of discontinuing their services. We are satisfied that the respondent board acted in good faith in terminating the positions of teacher-appellants for the purpose of effecting economy and to diminish the teacher force to a number commensurate with the number of pupils then in the elementary schools. It appears, however, that at the time of the termination of appellants' services, there were in the employ by respondent, seven teachers who had not acquired tenure. The Supreme Court of New Jersey, in the recent case of *Seidel vs. The Board of Education of Ventnor City* (110 N. J. L. 31), has held that:

“Granting that apart from the statute, the school board may, in the interest of economy, reduce the number of teachers, the protection

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10 afforded by the statute would be little more than a gesture if such board would held entitled to make that reduction by selecting for discharge, teachers exempt by law therefrom, and retaining the non-exempt. If such reduction is to be made at all and the place remains which the exempt teacher is qualified to fill, such teacher is entitled to that place as against the retention of a teacher not protected by the statute."

20 Counsel for the respondent board contends the foregoing is not applicable to the present case. He directs our attention to a remark made by Justice Parker in the decision wherein the Justice observes that the case (Seidel) is not within Section 3 of the Act of 1909, relating to reductions in the teaching staff due to diminution in the number of pupils, for there was no diminution. It seems to us the Seidel case states the principle that whenever the service of a teacher under tenure is to be discontinued by reason of economy or diminution in number of pupils, and there are teachers in the employ of the board not under tenure whose position a tenure teacher is competent to fill, the non-tenure teacher must first be

30 selected for discharge. As to the seven positions held by teachers not under tenure, we feel bound to follow our interpretation of the Seidel case and to hold that the positions held by these teachers should be assigned to seven of the thirty-four teachers involved in this appeal. It should be referred to the board of education to determine which of the seven teachers involved in this appeal shall be assigned to the positions held by the seven non-tenure teachers.

40 The remaining question relates to the claim by the teachers that they are entitled to the balance

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of salary for the year 1931-1932. The Commissioner of Education decided that all the teachers who had not received full salary since September 1, 1931, were entitled to the balance, less deduction due to the Teachers' Pension and Annuity Fund. We agree with this conclusion. The result is, we consider that the termination of the service of the thirty-four teachers by respondent board was legal, subject to the board assigning seven of such teachers to the positions held by teachers not protected by tenure, and that teachers who were not paid the balance of their salaries for the school year, are entitled to such payment, and we recommend, therefore, that the decision of the Commissioner, so far as it relates to the reinstatement of 26 of the appellants, be reversed, and that as to the termination of the services of the remaining 8 teachers, and the payment of the balance of the salaries of all the teachers, his decision be affirmed.

April 1, 1933.

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Opinion of the Supreme Court.

NEW JERSEY SUPREME COURT.

Nos. 220, 221, 222, 223—OCTOBER TERM, 1933.

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ANGELINA KOCH DOWNS,
Prosecutrix,

vs.

BOARD OF EDUCATION OF THE DISTRICT
OF HOBOKEN, and STATE BOARD OF
EDUCATION,

Defendants.

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RAI DRIESEN FLECHTNER,
Prosecutrix,

vs.

BOARD OF EDUCATION OF THE DISTRICT
OF HOBOKEN, and STATE BOARD OF
EDUCATION,

Defendants.

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BOARD OF EDUCATION OF THE DISTRICT
OF HOBOKEN,
Prosecutor,

vs.

ANGELINA KOCH DOWNS, and the
STATE BOARD OF EDUCATION,
Defendants.

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BOARD OF EDUCATION OF THE DISTRICT
OF HOBOKEN,
Prosecutor,

vs.

RAI DREISEN FLECHTNER, and the
STATE BOARD OF EDUCATION,
Defendants.

Opinion of the Supreme Court.

Argued October 3, 1933; decided March 23, 1934.

On Certiorari, etc.

Before:

BROGAN, Chief Justice, and Justices TRENCHARD and HEHER. 10

For Angelina Koch Downs and Rai Driesen Flechtner: ARTHUR T. VANDERBILT (NATHAN L. JACOBS, on the Brief).

For the Board of Education of Hoboken: JOSEPH GREENBERG.

Per Curiam:

These writs taken together bring up for review the action of the State Board of Education in affirming the dismissal by the school board of Hoboken of certain school teachers, the action of the State Board in ordering payment of certain unpaid salary to them, and the action of the State Board in ordering the school board of Hoboken to dismiss certain non-tenure teachers and to replace them with tenure teachers. 20

It appears that there were 9 elementary schools in the School District of Hoboken with 6,704 pupils in attendance in 1928. From that time forward until 1932 there was a marked decrease in attendance from year to year, so that in 1932 there were only 5,431 pupils. During the latter part of this period there were 5 vacant class rooms and 943 vacant seats. This diminution in the number of pupils was a natural one, due to the loss of population. During this period the decrease in the number of teachers was only 9. In 1931, due to a bank failure, inability to collect taxes and other causes, the City of Hoboken, which comprises the 40

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school district of Hoboken, found it difficult to finance its schools, difficult at first and almost if not impossible thereafter to borrow money by the use of all available credit of the city. From time to time the president of the board of education made public reference to economic problems facing the board. He referred to the fact that many of the teachers were married women, some of whom did not live in the city, and that condition he vigorously criticized. On June 27, 1932, a second conference was held between the bankers and the city officials in an effort to raise money, but that effort was futile in view of the position taken by the bankers that the cost of operating the schools must be reduced. As a result of this conference the City Commissioners met with the board of education and laid before them the situation. The result was that it was decided to close two schools. To carry out this decision the board met on June 29, 1932. At that meeting a report was made by the Superintendent of Schools that he had made certain transfers of teachers and other employees from and to various schools, subject to the approval of the board. That approval was unanimously given. By that transfer 26 teachers represented by the prosecutrix Angelina Koch Downs were transferred to schools Nos. 4 and 7. Later at the same meeting the board by resolution reciting in effect the decreased attendance, the excessive per capita cost of pupils, the necessity of economizing, and that the services of so large a number of teachers were no longer required, unanimously resolved that schools Nos. 4 and 7 be closed on June 30th at the close of the school session, and that the pupils theretofore attending those schools be transferred to other schools, and that 34 named teachers (including

Opinion of the Supreme Court.

the 26 heretofore referred to and 8 others represented by prosecutrix Rai Driesen Flechtner) be dismissed as of June 30, 1932, and abolished the offices of certain other employees.

All of the dismissed teachers here involved (namely, the 26 transferred to schools Nos. 4 and 7, and the 8 who had long served in Nos. 4 and 7) have served for more than 3 years, and are therefore under the protection of the Tenure of Office act. 10

An appeal was taken by the named teachers to the Commissioner of Education. That official concluded that the transfer of the 26 teachers from various schools to Nos. 4 and 7 was illegal in that it had for its purpose the placing them in a situation which would appear to legalize the termination of their services. As to the 8 teachers who had served in schools Nos. 4 and 7 prior to June 29, 1932, the Commissioner held that their services were legally terminated. 20

An appeal was then taken to the State Board of Education and that board held that the termination of the services of the 34 teachers was legal, subject to the board assigning 7 of the teachers to positions held by teachers not protected by tenure, and that the teachers who had not been paid the balance of their salaries for the school year were entitled to such payment; in other words, the decision of the Commissioner, so far as it related to the reinstatement of the 26 teachers, was reversed, and the termination of the services of the 8 teachers and the payment of the balance of salary for the year of all the teachers, was affirmed. 30

We think that the decision of the State Board of Education should not be disturbed. 40

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The powers of Boards of Education in the management and control of the school districts are broad. They are invested with the supervision, control and management of the public schools. They may make, amend and repeal rules, regulations, and by-laws not inconsistent with the school law or with the rules and regulations of the State Board of Education, and, among other things, may employ and discharge teachers. By section 68 of the School Law (C. S., p. 4744) they are authorized by a majority vote of the whole number of its members to appoint, transfer or dismiss teachers. These powers are limited as to the employment and discharge of teachers only to the extent provided by the Teachers' Tenure Law, Chap. 243, P. L. 1909. And it will be noticed that that act declares, among other things, that "nothing herein contained shall be held to limit the right of any school board to reduce the number of principals or teachers employed in any school district when such reduction shall be due to a natural diminution of the number of pupils in said school district."

In general the right to transfer a teacher seems to rest therefore, in the sound discretion of the board of education, and it seems to us that the mere fact that the 26 teachers were transferred from their various schools to schools Nos. 4 and 7, which at the same meeting the board of education determined to close, did not render the transfers illegal. In general the board had a right to dispense with the services of such number of teachers selected from the entire school district as it in good faith deemed necessary to effect the economy which its financial condition demanded, and whose services were no longer necessary because of the diminution of the number of pupils.

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It is further contended that what was done was in abuse of the powers and discretion of the board of education and was a gross discrimination, and this contention seems to rest upon the fact that the teachers dismissed were either married women or non-resident women, or both, and much is made of the expressed feelings of the president of the board with respect to this situation. 10

It is true that he expressed himself forcibly. It is true that he wrote letters to the teachers in which he expressed his views. It is also true that he made a survey and reported the results of his survey to the board. But it is also true that the board did not authorize such survey and took no action on such report with regard to non-resident and married women teachers, and that it did not authorize the president to communicate with the teachers nor to do anything in that regard. The board may or may not have been influenced by his views. Upon that we will not speculate. The question is does this action of the president affect the legality of the transfers? We think not. We are satisfied from this record that the purpose of the board was to effect economy and to terminate the services of a number of teachers no longer necessary because of the diminution of pupils, and we cannot say, even though they dismissed married or non-resident women teachers, giving preference in continued employment to residents of the school district and to those who would normally be dependent upon themselves for livelihood, that such action was an abuse of discretion or evidence of bad faith. The board appears to us to have acted within the authority conferred upon it by law, and its action involved the exercise of discretion, and in the absence of clear abuse, its action ought not to be disturbed; so we conclude 20 30 40

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that the transfer of the 26 teachers to schools Nos. 4 and 7 was lawful and that the board was justified in dismissing the teachers as it did, subject to the reservation imposed by the State Board.

10 It appears, however, that at the time of the termination of the teachers' services there were in the employ of the school board 7 teachers who had not acquired tenure. Now in the recent case of *Seidel vs. Board of Education of Ventnor City*, 110 N. J. L. 31, it was held that "granting that apart from the statute, a school board may, in the interest of economy, reduce the number of teachers, the protection afforded by the statute (Teachers' Tenure Act, P. L. 1909, ch. 243) would be
20 little more than a gesture if such board would be held entitled to make that reduction by selecting for discharge teachers exempt by law therefrom, and retaining the non-exempt. If such reduction is to be made at all, and a place remains which the exempt teacher is qualified to fill, such teacher is entitled to that place as against the retention of a teacher not protected by the statute."

That decision seems to apply to this case and to justify the action of the State Board of Education in requiring the Hoboken board to assign
30 seven of such discharged teachers to the positions held by teachers not protected by tenure.

The remaining question relates to the claim by the teachers that they are entitled to the balance of their salary for the year 1931-1932. Both the Commissioner of Education and the State Board of Education concurred in the view that all of the teachers who had not received full salary since September 1, 1931, were entitled to the balance, less deductions due to the Teachers' Pension and
40 Annuity Fund.

Opinion of the Supreme Court.

We think that was right. The teachers were under contract for a year's services and those services ran from September 1 to the following June 30th. They had performed their work and we see no reason why they are not entitled to their compensation.

The result is that the judgment of the State Board will be affirmed. No costs will be allowed any party hereto as against any other party. 10

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**Rule Affirming Order of State Board of
Education as to Prosecutrix-Defendant,
Angelina Koch Downs.**

NEW JERSEY SUPREME COURT.

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ANGELINA KOCH DOWNS,
Prosecutrix,

vs.

BOARD OF EDUCATION OF THE DISTRICT
OF HOBOKEN and STATE BOARD OF
EDUCATION,

Defendants.

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BOARD OF EDUCATION OF THE DISTRICT
OF HOBOKEN,
Prosecutor,

vs.

ANGELINA KOCH DOWNS and the STATE
BOARD OF EDUCATION,
Defendants.

On Certiorari
Rule Affirming
Order of State
Board of
Education.

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The Court having inspected the transcript and proceedings returned with the writs of certiorari in these causes and the reasons urged by prosecutrix, Angelina Koch Downs, for setting aside the order of dismissal of the prosecutrix, Angelina Koch Downs, and other teachers in a similar position with Angelina Koch Downs and the reasons urged by prosecutor, Board of Education of the District of Hoboken, for setting aside the order directing the payment of salary for the months of July and August, 1932, to said Angelina Koch Downs and other dismissed teachers in a similar position with Angelina Koch Downs, by the Board

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*Rule Affirming Order of State Board of
Education as to Prosecutrix-Defendant,
Angelina Koch Downs.*

of Education of the District of Hoboken, and the reasons urged by prosecutor, Board of Education of the District of Hoboken, for setting aside the order directing the Board of Education of the District of Hoboken to dismiss the seven teachers in its employ not protected by tenure at the time of the dismissal of said Angelina Koch Downs and other teachers in a similar position with said Angelina Koch Downs and to assign seven of said dismissed teachers from the group represented by prosecutrix, Angelina Koch Downs, or from the group represented by Rai Driesen Flechtner or from both groups, but in no event to exceed the number of seven, regardless of whether they are taken from one or the other group or from both, to the positions held by the said teachers not protected by tenure, and it appearing from the transcript and proceedings returned with the writ that it has been stipulated between counsel that the rights of the seven dismissed teachers in addition to prosecutrix, Angelina Koch Downs, and in a similar position with said Angelina Koch Downs, all of whom were appellants in the proceedings before the State Board of Education under review in this action, should be determined by the ruling of this Court with respect to the rights of said prosecutrix, Angelina Koch Downs, and having heard and considered the arguments of counsel thereon,

It is on this 25th day of April, 1934, ORDERED that the order of the State Board of Education, made on April 1, 1933, affirming the dismissal of prosecutrix, Angelina Koch Downs, and others in a similar position with said Angelina Koch Downs by the Board of Education of the District of Hoboken on June 30, 1932, and ordering the

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*Rule Affirming Order of State Board of
Education as to Prosecutrix-Defendant,
Angelina Koch Downs.*

10 payment by the Board of Education of the District
of Hoboken of salary for the months of July and
August, 1932, to said Angelina Koch Downs and
other dismissed teachers in a similar position with
said Angelina Koch Downs, and ordering the
Board of Education of the District of Hoboken
to dismiss the seven teachers in its employ not
protected by tenure at the time of dismissal of
said Angelina Koch Downs and other dismissed
teachers in a similar position with said Angelina
Koch Downs and to assign seven of said dismissed
teachers of the group represented by prosecutrix,
Angelina Koch Downs, or of the group repre-
sented by Rai Driesen Flechtner or from both,
20 but in no event to exceed the number of seven
teachers, regardless of whether they be taken
from one group or the other group or from both,
to the positions held by the said teachers not pro-
tected by tenure, be in all things affirmed, without
cost to any party hereto as against any other
party.

Entered April 25th, 1934.

30 On motion of
ARTHUR T. VANDERBILT,
Of Counsel with Prosecutrix-Defendant,
Angelina Koch Downs.

A true copy.

FRED L. BLOODGOOD,
Clerk.

**Rule Affirming Order of State Board of
Education as to Prosecutrix-Defendant,
Rai Driesen Flechtner.**

NEW JERSEY SUPREME COURT.

<p style="text-align: center;">RAI DRIESEN FLECHTNER, Prosecutrix, <i>vs.</i></p> <p style="text-align: center;">BOARD OF EDUCATION OF THE DISTRICT OF HOBOKEN and STATE BOARD OF EDUCATION, Defendants.</p>	}	10
<p style="text-align: center;">BOARD OF EDUCATION OF THE DISTRICT OF HOBOKEN, Prosecutor, <i>vs.</i></p> <p style="text-align: center;">RAI DRIESEN FLECHTNER and the STATE BOARD OF EDUCATION, Defendants.</p>	}	20
<p>On Certiorari Rule Affirming Order of State Board of Education.</p>		

The Court having inspected the transcript and proceedings returned with the writs of certiorari in these causes and the reasons urged by prosecutrix, Rai Driesen Flechtner, for setting aside the order of dismissal of the prosecutrix, Rai Driesen Fletchner and other teachers in a similar position with Rai Driesen Flechtner and the reasons urged by prosecutor, Board of Education of the District of Hoboken for setting aside the order directing the payment of salary for the months of July and August, 1932, to said Rai Driesen Flechtner and other dismissed teachers in a similar position with

*Rule Affirming Order of State Board of
Education as to Prosecutrix-Defendant,
Rai Driesen Flechtner.*

10 Rai Driesen Flechtner, by the Board of Educa-
tion of the District of Hoboken, and the reasons
urged by prosecutor, Board of Education of the
District of Hoboken for setting aside the order
directing the Board of Education of the District
of Hoboken to dismiss the seven teachers in its
employ not protected by tenure at the time of the
dismissal of said Rai Driesen Flechtner and other
teachers in a similar position with said Rai
Driesen Flechtner and to assign seven of said dis-
missed teachers from the group represented by
prosecutrix, Rai Driesen Flechtner or from the
group represented by Angelina Koch Downs or
from both groups but in no event to exceed the
20 number of seven regardless of whether they are
taken from one or the other group or from both,
to the positions held by the said teachers not pro-
tected by tenure and it appearing from the tran-
script and proceedings returned with the writ
that it has been stipulated between counsel that
the rights of the seven dismissed teachers in addi-
tion to prosecutrix Rai Driesen Flechtner, and in
a similar position with said Rai Driesen Flecht-
ner, all of whom were appellants in the proceed-
ings before the State Board of Education under
30 review in this action, should be determined by
the ruling of this court with respect to the rights
of said prosecutrix, Rai Driesen Flechtner and
having heard and considered the arguments of
counsel thereon;

40 It is on this 25th day of April, 1934, ORDERED
that the order of the State Board of Education,
made on April 1, 1933, affirming the dismissal of
prosecutrix, Rai Driesen Flechtner and others in
a similar position with said Rai Driesen Flechtner
by the Board of Education of the District of

*Rule Affirming Order of State Board of
Education as to Prosecutrix-Defendant,
Rai Driesen Flechtner.*

Hoboken on June 30, 1932, and ordering the payment by the Board of Education of the District of Hoboken of salary for the months of July and August, 1932, to said Rai Driesen Flechtner and other dismissed teachers in a similar position with said Rai Driesen Flechtner, and ordering the Board of Education of the District of Hoboken to dismiss the seven teachers in its employ not protected by tenure at the time of dismissal of said Rai Driesen Flechtner and other dismissed teachers in a similar position with said Rai Driesen Flechtner and to assign seven of said dismissed teachers of the group represented by prosecutrix, Rai Driesen Flechtner or of the group represented by Angelina Koch Downs or from both but in no event to exceed the number of seven teachers regardless of whether they be taken from one group or the other group or from both, to the positions held by the said teachers not protected by tenure be in all things affirmed, without cost to any party hereto as against any other party.

Entered April 25th, 1934.

On motion of 30
ARTHUR T. VANDERBILT,
Of Counsel with Prosecutrix-Defendant,
Rai Driesen Flechtner.

A true copy
FRED L. BLOODGOOD,
Clerk.

**Notice of Appeal and Grounds of Appeal of
Appellant, Angelina Koch Downs.**

NEW JERSEY SUPREME COURT.

10	<p style="text-align: center;">ANGELINA KOCH DOWNS, Prosecutrix,</p> <p style="text-align: center;"><i>vs.</i></p> <p style="text-align: center;">BOARD OF EDUCATION OF THE DISTRICT OF HOBOKEN, and STATE BOARD OF EDUCATION,</p> <p style="text-align: right;">Defendants.</p>	<p>On Certiorari Notice of Appeal and Grounds of Appeal.</p>
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20 *To Joseph Greenberg, Esq., Attorney of Defendant, Board of Education of the District of Hoboken, and to Defendant State Board of Education:*

TAKE NOTICE that the prosecutrix appeals to the Court of Errors and Appeals in the last resort in all causes from the judgment of the Supreme Court entered in this cause affirming the order of the State Board of Education sustaining the dismissal of prosecutrix by defendant Board of Education of the District of Hoboken upon the following ground:

1. The Supreme Court erred in affirming the order of the State Board of Education sustaining the dismissal of prosecutrix by defendant Board of Education of the District of Hoboken.

Dated: April 18, 1934.

40

ARTHUR T. VANDERBILT,
Attorney for and of Counsel with
Prosecutrix.

*Notice of Appeal and Grounds of Appeal of
Appellant, Angelina Koch Downs.*

Sat below :

BROGAN, C. J., TRENCHARD, J., HEHER, J.

Service of a copy of the within Notice of Appeal
and Grounds of Appeal is hereby acknowledged
this 25 day of April, 1934.

10

JOSEPH GREENBERG,
Attorney of Defendant Board of Edu-
cation of the District of Hoboken.

Service of a copy of the within Notice of Appeal
and Grounds of Appeals is hereby acknowledged
this 26 day of April, 1934.

C. J. STRAHAN, Deputy,
Secretary of State Board of Education.

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**Notice of Appeal and Grounds of Appeal of
Appellant, Board of Education of the
District of Hoboken.**

NEW JERSEY SUPREME COURT.

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BOARD OF EDUCATION OF THE DISTRICT
OF HOBOKEN,
Prosecutor,

vs.

ANGELINA KOCH DOWNS, and the STATE
BOARD OF EDUCATION,
Defendants.

On Certiorari
Notice of Appeal
and Grounds of
Appeal.

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*To Arthur T. Vanderbilt, Esq., Attorney of De-
fendant Angelina Koch Downs, and to De-
fendant, State Board of Education:*

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TAKE NOTICE that the prosecutor appeals to the Court of Errors and Appeals in the last resort in all causes from the judgment of the Supreme Court entered in this cause affirming the order of the State Board of Education in ordering that Angelina Koch Downs be paid her salary for the months of July and August, 1932, even though her dismissal as a teacher as of June 30, 1932, was sustained and also in ordering the prosecutor, Board of Education of the District of Hoboken, to replace non-tenure teachers with tenure teachers when the said prosecutor terminated the service of the defendant, Angelina Koch Downs, *et als.*, who had tenure, upon the following grounds:

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1. The Supreme Court erred in affirming the order of the State Board of Education in ordering

*Notice of Appeal and Grounds of Appeal of
Appellant, Board of Education of the
District of Hoboken.*

the prosecutor to pay the defendant, Angelina Koch Downs, her salary for July and August, 1932.

2. The Supreme Court erred in affirming the order of the State Board of Education in ordering the prosecutor to replace non-tenure teachers with tenure teachers when the prosecutor terminated the services of the defendant, Angelina Koch Downs, *et als.* 10

Dated: April 25, 1934.

JOSEPH GREENBERG,
Attorney for and of Counsel with
Prosecutor. 20

Sat below:

BROGAN, C. J., TRENCHARD, J., HEHER, J.

Service of a copy of the within Notice of Appeal and Grounds of Appeal is hereby acknowledged this 25th day of April, 1934.

ARTHUR T. VANDERBILT, 30
Attorney of Defendant Angelina Koch
Downs.

Service of a copy of the within Notice of Appeal and Grounds of Appeal is hereby acknowledged this 26th day of April, 1934.

C. J. STRAHAN, Deputy,
Secretary of State Board of Education.

**Notice of Appeal and Grounds of Appeal of
Appellant, Rai Driesen Flechtner.**

NEW JERSEY SUPREME COURT.

10	<p style="text-align: center;">RAI DRIESEN FLECHTNER, Prosecutrix,</p> <p style="text-align: center;"><i>vs.</i></p> <p style="text-align: center;">BOARD OF EDUCATION OF THE DISTRICT OF HOBOKEN, and STATE BOARD OF EDUCATION, Defendants.</p>	<p style="font-size: 3em;">}</p> <p>On Certiorari Notice of Appeal and Grounds of Appeal.</p>
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20 *To Joseph Greenberg, Esq., Attorney of Defendant, Board of Education of the District of Hoboken, and to Defendant State Board of Education:*

30 TAKE NOTICE that the prosecutrix appeals to the Court of Errors and Appeals in the last resort in all causes from the judgment of the Supreme Court entered in this cause affirming the order of the State Board of Education sustaining the dismissal of prosecutrix by defendant Board of Education of the District of Hoboken upon the following ground:

1. The Supreme Court erred in affirming the order of the State Board of Education sustaining the dismissal of prosecutrix by defendant Board of Education of the District of Hoboken.

Dated: April 18, 1934.

40 ARTHUR T. VANDERBILT,
Attorney for and of Counsel with
Prosecutrix.

*Notice of Appeal and Grounds of Appeal of
Appellant, Rai Driesen Flechtner.*

Sat below:

BROGAN, C. J., TRENCHARD, J., HEHER, J.

Service of a copy of the within Notice of Appeal
and Grounds of Appeal is hereby acknowledged
this 25 day of April, 1934.

10

JOSEPH GREENBERG,
Attorney of Defendant Board of Edu-
cation of the District of Hoboken.

Service of a copy of the within Notice of Appeal
and Grounds of Appeal is hereby acknowledged
this 26 day of April, 1934.

C. J. STRAHAN, Deputy,
Secretary of State Board of Education.

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**Notice of Appeal and Grounds of Appeal of
Appellant, Board of Education of the
District of Hoboken.**

NEW JERSEY SUPREME COURT.

10

BOARD OF EDUCATION OF THE DISTRICT
OF HOBOKEN,
Prosecutor,

vs.

RAI DRIESEN FLECHTNER and the STATE
BOARD OF EDUCATION,
Defendants.

On Certiorari
Notice of Appeal
and Grounds of
Appeal.

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*To Arthur T. Vanderbilt, Esq., Attorney of
Defendant, Rai Driesen Flechtner, and to
Defendant, State Board of Education:*

30

TAKE NOTICE that the prosecutor appeals to the Court of Errors and Appeals in the last resort in all causes from the judgment of the Supreme Court entered in this cause affirming the order of the State Board of Education in ordering that Rai Driesen Flechtner be paid her salary for the months of July and August, 1932, even though her dismissal as a teacher as of June 30, 1932, was sustained, and also in order the prosecutor, Board of Education of the District of Hoboken to replace non-tenure teachers with tenure teachers when the said prosecutor terminated the services of the defendant, Rai Driesen Flechtner, *et als.*, who had tenure, upon the following grounds:

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1. The Supreme Court erred in affirming the order of the State Board of Education in ordering

*Notice of Appeal and Grounds of Appeal of
Appellant, Board of Education of the
District of Hoboken.*

the prosecutor to pay the defendant, Rai Driesen Flechtner, her salary for July and August, 1932.

2. The Supreme Court erred in affirming the order of the State Board of Education in ordering the prosecutor to replace non-tenure teachers with tenure teachers when the prosecutor terminated the services of the defendant, Rai Driesen Flechtner, *et als*.

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JOSEPH GREENBERG,
Attorney for and of Counsel with
Prosecutor.

Dated: April 25, 1934.

20

Sat below: Brogan, C. J.; Trenchard, J.;
Heher, J.

Service of a copy of the within Notice of Appeal and Grounds of Appeal is hereby acknowledged this 25th day of April, 1934.

ARTHUR T. VANDERBILT,
Attorney of Defendant, Rai Driesen
Flechtner.

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Service of a copy of the within Notice of Appeal and Grounds of Appeal is hereby acknowledged this 26th day of April, 1934.

C. J. STRAHAN, Deputy,
Secretary of State Board of Education.

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Stipulation.

NEW JERSEY COURT OF ERRORS AND
APPEALS.

10

RAI DRIESEN FLECHTNER,
Prosecutrix-Appellant,

vs.

BOARD OF EDUCATION OF THE DISTRICT
OF HOBOKEN and STATE BOARD OF
EDUCATION,
Defendants-Appellees.

On Appeal from
Supreme Court
On Certiorari
Stipulation.

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It is hereby stipulated and agreed between the parties hereto that :

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1. The stipulation entered into between the parties under date of August 14, 1933, when this cause was pending in the Supreme Court, shall remain in full force and effect with respect to the appeals of prosecutrix Rai Driesen Flechtner and prosecutrix Angelina Koch Downs to the Court of Errors and Appeals and the decision of that Court thereon.

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2. Said stipulation shall likewise remain in full force and effect with respect to rights and obligations of defendant Board of Education of the District of Hoboken stipulated thereunder in the event that said Board of Education of the District of Hoboken shall take and prosecute cross-appeals to the Court of Errors and Appeals.

3. In the event of the prosecution of said cross-appeals, the appeal and cross-appeals shall be

Stipulation.

argued and heard together and a single combined state of case and briefs may be used for all appeals, namely, that of Rai Driesen Flechtner and any cross-appeal thereon and that of Angelina Koch Downs and any cross-appeal thereon.

4. In the event of cross-appeals by the Board of Education of the District of Hoboken, the parties will share equally the costs of preparing the state of case, which is to be prepared in that event by the attorney for the teachers.

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ARTHUR T. VANDERBILT,
Attorney for and of Counsel with
Prosecutrix-Appellants Rai Drie-
sen Flechtner, *et als.*

JOSEPH GREENBERG,
Attorney for and of Counsel with
Defendant-Appellant Board of
Education of the District of
Hoboken.

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Dated: April 27, 1934.

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135MAY.T.1934

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New Jersey Court of Errors and Appeals

ANGELINA KOCH DOWNS,
Prosecutrix-Appellant,
vs.

BOARD OF EDUCATION OF THE DISTRICT
OF HOBOKEN, and STATE BOARD OF
EDUCATION,
Defendants-Appellees.

RAI DRIESEN FLECHTNER,
Prosecutrix-Appellant,
vs.

BOARD OF EDUCATION OF THE DISTRICT
OF HOBOKEN, and STATE BOARD OF
EDUCATION,
Defendants-Appellees.

BOARD OF EDUCATION OF THE DISTRICT
OF HOBOKEN,
Prosecutor-Appellant,
vs.

ANGELINA KOCH DOWNS, and STATE
BOARD OF EDUCATION,
Defendants-Appellees.

BOARD OF EDUCATION OF THE DISTRICT
OF HOBOKEN,
Prosecutor-Appellant,
vs.

RAI DRIESEN FLECHTNER and STATE
BOARD OF EDUCATION,
Defendants-Appellees.

On Appeal from
Supreme Court.

On Certiorari.

**BRIEF FOR PROSECUTRICES-APPELLANTS
ANGELINA KOCH DOWNS AND RAI
DRIESEN FLECHTNER.**

Statement of Facts.

This is an appeal (S. C., pp. 318, 320) from judgments of the Supreme Court (S. C., pp. 312-317), based on a decision of that court reported in 12 N. J. Misc. 345 (S. C., p. 304 *et seq.*), affirming, on certiorari, an order of the State Board of Education (S. C., p. 286) sustaining the dismissal from their employment as public school teachers in Hoboken of prosecutrices-appellants Angelina Koch Downs and Rai Driesen Flechtner and thirty-two other teachers by the defendant-appellee Board of Education of the District of Hoboken. The latter has likewise appealed to this Court (S. C., pp. 320, 324) from those portions of the same decision of the Supreme Court unfavorable to it wherein the reinstatement of a certain number of these teachers was ordered and certain salary ordered paid to all these teachers which had been wrongfully withheld by the Board of Education. To simplify expression, prosecutrices-appellants Angelina Koch Downs and Rai Driesen Flechtner and the other thirty-two teachers represented by them will be referred to in this brief as the "teachers," and the Board of Education of the District of Hoboken as the "Board of Education."

These thirty-four teachers had admittedly all been employed as teachers of regular elementary grade classes by the Board of Education for a period in excess of three years and were protected by the tenure of office provisions of the New Jersey School Law (P. L. 1909, Ch. 243, p. 398, 4 C. S. 4762; S. C., p. 277). In fact many of them had

been serving as teachers there for from twenty to twenty-eight years (S. C., pp. 229-244) and had but a few years longer to go before becoming eligible for retirement under the school pension acts.

On June 29, 1932, twenty-six of these teachers (represented in these proceedings by prosecutrix-appellant Angelina Koch Downs) received letters (S. C., pp. 83-4; Ex. F, S. C., p. 35) from the Superintendent of Schools of Hoboken stating that they had been transferred, some to School No. 4, the remainder to School No. 7, the transfers to take effect immediately. The remaining eight teachers here involved (represented in these proceedings by prosecutrix-appellant Rai Driesen Flechtner) were already assigned to one or the other of these two schools and had been teaching there. At the same time seventeen teachers located in School No. 4 were transferred to other schools to classes formerly taught by the transferred teachers and a like number were transferred out of School No. 7 (S. C., pp. 118, 120, 267-269).

The Board of Education met that evening and by resolution approved these transfers (S. C., pp. 266-269), which were in reality to empty classrooms since school was over for the year the next day. At the same meeting and within a few minutes thereafter the Board of Education adopted resolutions baldly closing Schools No. 4 and No. 7 on the next day, June 30th, abolished all classes in those buildings, and the positions of their forty-one teachers, including the thirty-four interested in these proceedings, who had just been assigned there by virtue of the transfers above mentioned (S. C., pp. 269-272). Letters so advising these teachers that their positions as teachers in these two schools had been abolished, without assigning any reason whatsoever therefor (S. C.,

pp. 36, 65), were delivered to them on June 30th (S. C., pp. 85, 95).

The teachers who were so summarily dismissed were either married or non-residents of the City of Hoboken or both. This fact was admitted by the Board of Education (S. C., p. 90). All of the teachers who were transferred out of School No. 4 on June 29th to prepare for this wholesale slaughter were residents and unmarried (S. C., p. 101).

The circumstances surrounding this brazen action indicate beyond any reasonable doubt that the unlucky forty-one, all married or non-residents or both, were personally selected for dismissal in a most illegal and unscrupulous manner.

On February 1, 1932, at the organization meeting of the defendant Board of Education of the District of Hoboken, a plan was inaugurated to eliminate married and non-resident teachers from the Hoboken school system. Mr. James P. Lavery, President of the Board, submitted a report in which he stated that the presence of married teachers was a "disturbing factor in school affairs" and that in his opinion "proper mental and physical home responsibility impairs the teaching ability of the mercenary wife who persists in pursuing a pedagogical occupation" (S. C., p. 223). He described the teachers who had changed their residence from Hoboken to other cities as "most disloyal among those in our educational field" (S. C., p. 223).

In April, 1932, letters, on Board of Education stationery and signed by James P. Lavery, individually and as President of defendant Board of Education, were sent to the teachers in the Hoboken public schools who were non-resident or married or both. Letters mailed to non-resident teachers advised them that they should "interpret this letter as a summons to dwell here, per-

form a civic duty, share local burden, spend more for necessities of life" and that "a pretense of taking up abode in Hoboken will not suffice the purpose. An established, genuine home is the objective of the authorities" (S. C., p. 26).

Letters addressed to married teachers stated that, "You can not faithfully serve two masters. A family home management makes for fatigue and anxiety. In the classroom the teacher married shows temperamental irritability and proneness to distraction, abandons alert and intensive direction of study projects" (S. C., p. 29). "Your continuing to function as a married woman teacher, especially in this season of depression, is most censurable. You practically usurp a place which should be occupied by an unmarried woman, teacher eligible. Moral sensibility of the injustice done should motivate suspension of your school activities" (S. C., p. 31).

At a meeting of defendant Board of Education of the District of Hoboken held on April 18, 1932, President Laverty reported in full as to the progress of the campaign against married and non-resident teachers. He referred to the fact that, "This Board two months ago directed attention to this truth" and to the letters which had been sent to the teachers as having been mailed to "ethical transgressors" and stated that "consequent to the comments of this Board concerning the forsaking of the City of Hoboken by public school teachers, report is made of the return of eight teachers who have once again taken up genuine permanent homes in this community" (S. C., p. 218).

The minutes of the Board (S. C., pp. 216, 220) show that no action was taken repudiating or in any way disapproving of the actions or comment of its President in these respects. This course of action was not denied or refuted by President Laverty or any member of the board.

Under date of June 23, 1932 a further letter on Board of Education stationery and signed by J. P. Laverty, individually and as President of the Board of Education was sent to married and non-resident teachers. It stated that "the 'mercenary' minded sustain defiance—the married woman teacher incubus shall be lifted from the monitress body force" and that "the recalcitrant 'group' must fully meet the April letter requirements. An evasion will not be countenanced" (S. C., p. 33).

Within a week thereafter the Board put into effect its plan to eliminate married and non-resident teachers by the transfers and abolition of positions by the closing of Schools No. 4 and No. 7 as has previously been recounted.

No teachers were dismissed except those who were married or non-resident or both and had received the letters described above (S. C., p. 118).

Thereafter the present proceedings were commenced when petitions were filed with the Commissioner of Education on behalf of thirty-four of the forty-one dismissed teachers; as heretofore stated twenty-six of these teachers (represented by prosecutrix-appellant Angelina Koch Downs) had been transferred into schools No. 4 and No. 7 at the time of their closing, and the remaining eight (represented by prosecutrix-appellant Rai Driesen Flechtner) had been selected to remain in schools No. 4 and No. 7 at that time. Hearings were held before Assistant Commissioner Strahan and all of the facts stated above were established beyond any question by the testimony introduced on behalf of the teachers. In fact, there is practically no dispute or conflict whatever in the testimony. The only issues presented are as to the legal effect to be given to this state of facts.

At the time of their dismissal there were eight non-tenure teachers who were employed and are

still employed by the Board of Education (S. C., p. 113).

All of the teachers were employed at yearly salaries which were paid semi-monthly from September to June, inclusive. The salaries for the summer months of July and August were generally paid in a single sum in July. Although all of the teachers received their monthly salaries through June, 1932, they did not receive any compensation for July and August, 1932, despite the fact that they actually completed all of the work required of them up to September, 1932 (S. C., pp. 130-132).

The Board of Education called three witnesses to testify on its behalf at the hearing before Assistant Commissioner Strahan. Messrs. Gilfert and Shinn testified as to financial difficulties being encountered by the City of Hoboken. Mr. Lewis testified as to the decrease in the number of pupils attending the elementary schools and as to the cost of education in Hoboken. He testified that for the school year 1931-1932 the school population was 271 pupils less than the previous year; that during the school year 1930-1931 the school population was 270 less than the previous year; and that during the school year 1929-1930 the school population was 219 less than the previous year, totaling a decrease of 760 pupils since 1928 (S. C., p. 122). The testimony likewise indicates that during the same period there was a net loss of fifty-seven teachers, including nine teachers from 1928 to 1931 (S. C., pp. 123-124), seven retired on pension at the end of June, 1932 (S. C., p. 258), and the forty-one who were dismissed by closing schools No. 4 and No. 7 as previously described.

At the conclusion of the hearing the Commissioner of Education held that the twenty-six teachers who were transferred into schools No. 4 and No. 7 at the time of their closing were illegally

dismissed but that the eight teachers who were selected to remain in schools No. 4 and No. 7 at the time of the transfers were properly dismissed (S. C., p. 277). He further held that all of the teachers were entitled to be compensated for the months of July and August, 1932. The eight teachers and the Board of Education then appealed to the State Board of Education (S. C., pp. 45-50).

In April, 1933, the State Board of Education rendered an opinion that the power of the Board of Education to transfer and dismiss the thirty-four teachers was absolute and that no inquiry could be had into the reasons for the Board's action except that it had no right to dismiss tenure teachers while non-tenure teachers were continued in employment. The State Board of Education directed the reinstatement of a number of teachers corresponding with the number of non-tenure teachers retained and further directed that their salaries for the months of July and August, 1932, should be paid to all of the teachers.

Application was then made on behalf of the teachers for writs of certiorari to review the action of the Hoboken Board of Education and the State Board of Education; the Hoboken Board of Education likewise applied for writs of certiorari. Chief Justice Brogan allowed writs in the matters of Angelina Koch Downs, representing the twenty-six teachers who were transferred and then dismissed, and Rai Driesen Flechtner, representing the remaining eight teachers. It has been stipulated that the decision in the matter of Angelina Koch Downs shall govern the rights of the twenty-six teachers transferred and dismissed and that the decision in the matter of Rai Driesen Flechtner shall govern the remaining eight teachers (S. C., pp. 15, 326).

The Supreme Court handed down its opinion in March, 1934, affirming the conclusions of the State Board of Education (S. C., p. 304, *et seq.*). Both the teachers and the Hoboken Board appeal to this Court, each assigning as grounds of appeal (S. C., pp. 318-325) that the Supreme Court erred in affirming those portions of the order of the State Board of Education unfavorable to them. Because all the cases arise out of the same situation, counsel have stipulated that they shall be presented and considered together (S. C., p. 326).

POINT I.

The Supreme Court erred in affirming the decision of the State Board of Education wherein it determined that the dismissal of the teachers was not unlawful and was not in violation of the tenure of office provisions of the New Jersey School Law.

Under the express terms of the New Jersey School Law the service of teachers employed for three years is "during good behavior and efficiency" unless a shorter period is fixed by the employing board (P. L. 1909, p. 398, 4 C. S. 4763) and no teacher may be dismissed except for "inefficiency, incapacity, conduct unbecoming a teacher or other just cause" and then only after written charges have been preferred and an opportunity of having been heard has been furnished (P. L. 1909, p. 398, 4 C. S. 4763).

It is not disputed that these teachers were employed as teachers for over three years and that since no shorter period was fixed by the employing board their service was "during good behavior and efficiency." It is conceded that they were entirely efficient and that no charges have

ever been made or contemplated against them (S. C., p. 88).

The Board of Education has sought to justify the transfers and dismissals of these teachers on the ground that their positions were lawfully abolished for reasons of economy and because of a diminution in the number of pupils (S. C., p. 37). The Supreme Court held that "the board had a right to dispense with the services of such number of teachers selected from the entire school district as it *in good faith* deemed necessary to effect the economy which its financial condition demanded, *and* whose services were no longer necessary because of the diminution of the number of pupils" (S. C., p. 308; italics ours). The teachers contend that their dismissals were made in bad faith, the result of unlawful discrimination and for illegal reasons, and that even assuming the Board of Education had the right to dismiss some teachers for reasons of economy or diminution of pupils, there was no honest selection or exercise of discretion on any proper basis. We submit that the Supreme Court applied unsound principles of law to the uncontradicted facts and reached erroneous conclusions in considering the legal effect of these facts, when it held that the Board had lawfully consummated the dismissal of the teachers.

The teachers having admittedly established their right to tenure of office, the burden fell upon the Board of Education to clearly establish that the dismissals were lawful and not in violation of the provisions of the School Law designed to benefit and protect teachers from political machinations and personal animus. The Board is likewise required to satisfactorily disprove the evidence of the teachers indicating unlawful dismissal. *Carroll v. City of Bayonne*, 3 N. J. Misc. 308, 128 Atl. 235 (Sup. Ct. 1925). Assistant Com-

missioner Strahan so ruled during the course of the hearing at which all the testimony was taken in these cases (S. C., pp. 81-83).

The decisions of our Courts are unanimous in holding that where a governmental body or unit seeks to avoid the operation and effect of a tenure of office law and to lawfully dismiss a person protected by such a statute, its action and conduct must be marked by absolute good faith and lack of discrimination and it must clearly bring its action within the express or implied exceptions of the tenure laws. The cases are positive in indicating that the requirement of good faith and the reasonable exercise of it is inherently to be read into every tenure act.

Ingram v. Board, 63 N. J. L. 542 (Sup. Ct., 1899);

Carroll v. City of Bayonne, 3 N. J. Misc. 308, 128 Atl. 235 (Sup. Ct., 1925);

Nickerson v. Wildwood, 111 N. J. L. 169 (Sup. Ct., 1933);

Maxwell v. Wildwood, 111 N. J. L. 181 (Sup. Ct., 1933);

Theckston v. Board of Education, N. J. School Law Decisions (1928), pp. 104, 107.

It should also be pointed out that under the terms of the contracts as set forth in the petitions (S. C., p. 21) and admitted in the answers of the defendant Board of Education (S. C., p. 37) prosecutrices were employed "to teach in the public schools of the City of Hoboken, New Jersey." Consequently, the position of each prosecutrix as fixed by the terms of her contract was that of "teacher" in the public schools of the City of Hoboken. See *Seidel v. Board of Education of Ventnor City*, 110 N. J. L. 31 (Sup. Ct., 1932), where Mr. Justice Parker, speaking for the Court, said:

“In this case the prosecutrix had been generally employed ‘to teach in the Ventnor City Public School’ in May, 1927, by written contract * * *. Miss Seidel was employed to teach; and if the Board at any time had elected to transfer her to a regular class, she could not legally have claimed exemption from such service, so on the other hand, the Board, having assigned her under the written contract to the special class, cannot deprive her of her tenure as a teacher by abolishing that class. She has the same standing as the other teachers under similar general contracts, with the added advantage of indefinite tenure arising from three years’ service, as against those who have not served that length of time” (affirmed without opinion, 111 N. J. L. 240, E. & A., 1933).

It is, of course, clear that the position of teacher in the public schools of the City of Hoboken has not been abolished, despite the terms of the Board’s resolutions and letters so stating. See *Carroll v. City of Bayonne*, 3 N. J. Misc. 308, 128 Atl. 235 (1925), where the Court said:

“The resolutions in question are based squarely upon the assertion that the positions of patrolmen and firemen are abolished, which declaration, viewed in the light of the necessity of a municipality, no matter how sparsely it may be populated, to provide its inhabitants with adequate police and fire protection, seems to border upon the ridiculous.”

With these fundamental considerations in mind, we proceed to an analysis of the correct legal conclusions to be reached on the undisputed facts.

It is not necessary to repeat in detail the story of the crusade of the Board of Education and its President against married and non-resident teachers, which has been recited at some length in our Statement of Facts. President Laverty’s survey and query cards (S. C., p. 21), his reports to

the Board thereon, that body's consideration of the question as evidenced by references in the minutes of later meetings (S. C., pp. 217, 219), his series of pointed letters to married and non-resident teachers, his report to the Board that eight of the out-of-towners had moved back after the first batch of letters (S. C., p. 219), a last letter sent out on June 23rd (S. C., p. 33), and finally the high-handed transfer of a large group of non-resident and married teachers to Schools No. 4 and No. 7 one day before the close of school and their summary dismissal the next day by closing the schools—this well-planned and invidious course of conduct over a long period conclusively demonstrates a desire to be rid of these particular teachers because of their non-residence and marriage, absolutely regardless of their tenure rights obtained by long and faithful service.

It is most significant that no teachers were transferred into Schools No. 4 and No. 7 except those who were married or non-resident or both. No teachers were dismissed from the Hoboken school system at this time except married teachers or those living out of town. All of the teachers transferred out of School No. 4 on June 29th were single and residents of Hoboken. If the Board of Education were really acting in good faith in closing schools for reasons of economy, any school could be closed with such teachers as were then working there without this deliberate selection and segregation of a particular group of teachers (married or non-resident or both) who were to be dumped out completely the very next day. Otherwise, why transfer these teachers there a few hours before giving notice of predetermined school closing? No facts could be stronger to show that these teachers were selected for dismissal for personal reasons; plainly the Board wanted to get rid of them despite their tenure protection

because they were married or non-residents. It is discrimination of the clearest and most brazen sort, aimed directly at these particular persons to the exclusion of all others in the system.

The twenty-six teachers who were transferred into Schools No. 4 and No. 7 from schools where they had been located for years were of course moved there for the sole purpose of enabling them to be dismissed by means of the wholesale guillotine. The trick has been tried before, but the School Law Decisions fail to record a case where it has proved successful to deprive a teacher of tenure rights. It is at least novel to transfer one day and clean house the next. The Commissioner of Education has definitely held that dismissal by attempted abolition of office after such transfers is illegal. In *Theckston v. Board of Education*, New Jersey School Law Decisions (1928), p. 104, the Commissioner said:

“If it could be proved that a janitor was placed in a position which it was intended to abolish for the purpose of defeating such person's tenure rights, then *mala fides* would void such action.”

The Commissioner in the first stage of the case at bar definitely so held (S. C., pp. 280-281). Whether the transfers standing alone are illegal, in view of the general power of a Board to transfer teachers, is immaterial. Considered as a part of the whole scheme and chain of events, their significance cannot be avoided.

The proof of bad faith and discrimination with reference to teachers who were selected to remain in schools No. 4 and No. 7 (represented by prosecutrix-appellant Rai Driesen Flechtner) was as clear as was the proof with reference to the twenty-six teachers transferred there. There can be no question that the eight teachers who were

selected to remain in schools No. 4 and No. 7 at the time of their closing were so selected because they were non-resident or married. For reasons identical with those resulting in the dismissal of the twenty-six teachers defendant Board of Education dismissed the eight teachers who were already in schools No. 4 and No. 7. The fact that these eight teachers happened to be originally in those schools is immaterial. The bad faith and unjust discrimination in dismissing them is as patent as with the group of the twenty-six teachers who were transferred into schools No. 4 and No. 7.

An illustration will remove any doubt which might exist as to the validity of any contrary result, such as was reached by the Commissioner of Education with reference to these eight teachers (S. C., pp 281-282). Suppose a board of education decides that for reasons of economy and because of a diminution in the number of pupils it will be advisable to dismiss ten teachers. It then decides that the opportunity is present to eliminate all teachers of a particular religious faith from its school system. Assume that five of the ten teachers in the school system who are of that faith are in school No. 1, while the remaining five are scattered through the remaining schools in the city. Assume, further, that the board then transfers out of school No. 1 all of the teachers except the five teachers of that faith and transfers into school No. 1 the remaining teachers of that faith. At the same time the board closes school No. 1 and advises the ten teachers that their positions have been abolished. Can there be any question that the action of the board of education in selecting the ten teachers for dismissal is unlawful as to all ten teachers? To permit a school board to so select ten teachers for dismissal because of religious reasons would fly counter to the very pur-

pose of the tenure of office act and would, as stated in the *Carroll* case, "pave the way for the annihilation of the operation of the tenure of office act altogether."

It is almost inconceivable how such conduct and course of action, based on undisputed testimony, can be held, in law, to constitute anything but bad faith and discrimination and abuse of discretion. Definite selection of these particular teachers for dismissal for a reason which has no basis in law is unquestionably demonstrated.

It is admitted that marriage was not prohibited or restricted or non-residence forbidden by the Board of Education (S. C., p. 202), and they are not lawful grounds for dismissal in and of themselves and offer no valid basis for the non-application of teacher tenure provisions. *Nommensen v. Hoboken Board of Education*, New Jersey School Law Decisions (1928), p. 466; *Richards v. District School Board*, 78 Ore. 621 (1915); *School City of Elwood v. State*, 180 N. E. 471 (Ind. 1932).

In the *Richards* case the Court, in holding that the dismissal of a teacher because of her marriage was unlawful, said:

"If a teacher becomes inefficient or fails to perform a duty, or does some act which of itself impairs usefulness, then a good or reasonable cause for dismissal would exist. The act of marriage, however, does not, of itself, furnish a reasonable cause. That the marriage status does not necessarily impair the competency of all women teachers is conceded by the school authorities when they employ married woman, as they are even now doing, to teach in the schools of this district. The clerk of the board admitted that in some instances a woman becomes a better teacher after marriage than she was before. The reason advanced for the rule adopted by the board is that after marriage a woman may devote her time and attention to her home rather than

to her school work. It would be just as reasonable to adopt a rule that if a woman teacher joined a church it would work an automatic dismissal from the schools on an imagined assumption that the church might engross her time, thought, and attention to the detriment of the schools; but such a regulation as the one supposed would not even have the semblance of reason. It must be conceded that quite a different case is presented where the act rules against is inherently wrong. The act to which the instant rule relates does not involve a single element of wrong, but, on the contrary, marriage is not only protected by both the written and unwritten law, but it is also fostered by a sound public policy. It is impossible to know in advance whether the efficiency of any person will become impaired because of marriage, and a rule which assumes that all persons do become less competent because of marriage is unreasonable because such a regulation is purely arbitrary. If a teacher is just as competent and efficient after marriage, a dismissal because of marriage would be capricious. If a teacher is neglectful, incompetent and inefficient, she ought to be discharged whether she is married or whether she is single. Instructive discussions of the principles involved herein may be found in *State ex rel. Hart v. Duluth*, 53 Minn., 238, 39 Am. St. Rep. 595, 55 N. W. 118; *McCully v. State*, 102 Tenn. 509, 46 L. R. A. 567, 53 S. W. 134; *People ex rel. Nichols v. New York*, 19 Hun 443; *People ex rel. Keech v. Thompson*, 94 N. Y. 451; *Guden v. Dike*, 71 App. Div. 422, 75 N. Y. Supp. 794; *Hagerstown Street Comrs. v. Williams*, 96 Md. 232, 53 Atl. 923. See also *Biggs v. McBride*, 17 Or. 640, 5 L. R. A. 115, 21 Pac. 878."

It is most significant that the Board of Education introduced no testimony to refute or deny the contentions and evidence of the teachers that they were dismissed because they were married or non-residents. Much of the teachers' proof was ob-

tained from the records of the Board and the testimony of Mr. Lewis, its Secretary. Neither President Laverty nor any member of the Board was called as a witness to deny or contradict the great preponderance and weight of testimony to the effect that these teachers were selected, segregated and dismissed for these reasons as a result of the preconceived plan which the evidence demonstrates. The law is well settled that where, as here, the Board did not call its President, who attended the hearings, nor indeed any of its members, to deny the testimony introduced on behalf of the teachers, a strong inference in favor of the teachers may be drawn therefrom. *Johnston v. McKenna*, 76 N. J. Eq. 217, 225 (Ch., 1909), Aff'd 77 N. J. Eq. 55 (E. & A., 1910); *Provident Institution for Savings v. Sisters of St. Francis*, 87 N. J. Eq. 424, 426 (Ch., 1917), aff'd 88 N. J. Eq. 349 (E. & A., 1917); *Nelson v. Public Service Transport Co.*, 5 N. J. Misc. 73, 135 Atl. 467 (Sup. Ct., 1927); *Roach v. Yellow Cab Co.*, 6 N. J. Misc. 386, 141 Atl. 787 (C. P., 1928); *Wratchford v. Millburn Township*, 105 N. J. L. 657 (E. & A., 1929).

The Board of Education has contended, and the Supreme Court seemed to feel, that the acts of President Laverty in writing the series of flowery epistles, which he did, condemning married and non-resident teachers and asking such members of the force to comply or resign, was not binding upon the Board of Education. The uncontradicted evidence demonstrates that such a conclusion is erroneous in law and that exactly the contrary result is sound and unescapable. These letters (S. C., pp. 26-36) were sent out by him to married and non-resident teachers at regular intervals upon the letterhead of the Board of Education and signed by himself, individually and as President of the Board of Education. He made a survey of the situation and sent out query cards to

the teachers to collect the information. He reported at length on these activities to the Board of Education at its organization meeting on February 1, 1932, and his report is quoted in the minutes of the Board. He said in part: "A disturbing factor in school affairs is the thirty-nine married women teachers. There are 123 unmarried young women on the Certified Monitress List who seek teacher placement. I contend that proper mental and physical home responsibility impairs the teaching ability of the mercenary wife who persists in pursuing a pedagogical occupation. Most disloyal among those in our educational field is the man or woman born in Hoboken, educated in its school with public funds, entrenched in a permanent teacher position, who deserts the city and removes to a suburban town" (S. C., pp. 222-223).

Again at the April 18th meeting, he reported again on his survey and query cards and specifically referred to some previous action or discussion by the Board on the subject. The minutes of that meeting specifically mention that eight non-residents had returned to the city as a result of the campaign. The official minutes read: "President Laverty informed the Board of the result of a recent survey made of the Supervisory and Teaching forces of the schools. In this connection he submitted the following data: A number of the Public School Supervisory and Teaching Staff do not live here. This Board two months ago directed attention to this truth. Each of the educator force was provided with a 'query card.' Order was given to disclose certain facts of school life . . . 139 of the pedagogic force reside beyond the limits of Hoboken; . . . 18 married women teachers are numbered among the 'non-residents' . . . Communications mailed to the alleged 'ethical' transgressors comprehend 'four' grouping: Non-resi-

dents—'those who deserted the City of their birth'—'those who never lived in Hoboken,' married women teachers—'non-residents'—also 'resident' . . . Consequent to the comments of this Board concerning the forsaking of the City of Hoboken by Public School Teachers, report is made of the return of eight teachers who have once again taken up genuine permanent homes in this community'' (S. C., pp. 217-219).

The records and minutes of the Board fail to show that it ever repudiated or disapproved of this action of its President. His activities were made a part of the official records of the Board and were tacitly acquiesced in and approved. The President, though in attendance at the hearing, was not called on to deny his authority to proceed as he did nor was any member called as a witness to recount the disapproval of the Board or its refusal to ratify or sanction the procedure and course of action. This failure of testimony created a strong inference in favor of the truth of the teacher's evidence and inferences to be drawn therefrom. Mr. Lewis, the Secretary of the Board, testified that he knew of no occasion on which Mr. Laverty, who has been President for twenty years, ever signed anything as President without authority (S. C., p. 190). During the hearing before Assistant Commissioner Strahan he ruled that the burden was upon the Board to show that the letters were mailed without authority (S. C., p. 82). This burden certainly was not sustained.

The rule of law is elementary that when a corporate body fails to disaffirm the acts of one of its officers within a reasonable time after learning of them, it is presumed to have ratified them. The Supreme Court of the United States enunciated this well-established rule in *Pittsburgh, Cincinnati and St. Louis Railway Co. v. Keokuk and Hamil-*

ton Bridge Co., 131 U. S. 287, 33 L. ed. 159, at page 160 (1888), as follows:

“When the president of a corporation executes, in its behalf, and within the scope of its charter, a contract which requires the concurrence of the board of directors, and the board, knowing that he has done so, does not dissent within a reasonable time, it will be presumed to have ratified his act. *Indianapolis Rolling Mill v. St. Louis, F. S. & W. R. Co.*, 120 U. S. 256 (30:639). And when a contract is made by any agent of a corporation in its behalf, and for a purpose authorized by its charter, and the corporation receives the benefit of the contract, without objection, it may be presumed to have authorized or ratified the contract of its agent.

“*Bank of Columbia v. Patterson*, 11 U. S. 7, Cranch, 299 (3:351); *Bank of United States v. Dandridge*, 25 U. S. 12 Wheat, 64 (6:552); *Zabriskie v. Cleveland, C. & C. R. Co.*, 64 U. S. 23 How. 381 (16:488); *Union Gold Mining Co. v. Rocky Mountain Nat. Bank*, 96 U. S. 640 (24:648); *Illinois Pneumatic Gas Co. v. Berry*, 113 U. S. 322, 327 (28:1003, 1005). This doctrine was clearly and strongly stated by Mr. Justice Story, delivering the judgment of this court, in each of the first two of the cases just cited.”

To the same effect is *Indianapolis Rolling Mill Co. v. St. Louis, Fort Scott and Wichita R. R. Co.*, 120 U. S., 256, 30 L. ed. 639, at p. 641 (1886), where the Court spoke in this vein:

“The rule of law upon the subject of the disaffirmance or ratification of the acts of an agent required that if they had the right to disaffirm it they should do it promptly, and if, after a reasonable time they did not so disaffirm it, a ratification would be presumed. In regard to this it appears that the board, when notified of what had been done by their agents, did not disaffirm their action at that time, but that the act or resolution of dis-

affirmance was passed about two years after notice of the transaction, and that if the suit brought in this case can be considered as an act of disaffirmance it came too late, as it was commenced some six months after they had knowledge of the release.”

In our case, the whole scheme was consummated by the transfers and dismissals and the first act of disaffirmance came at the hearing, when counsel objected to the binding force of the letters and reports of the President.

The only evidence introduced by the Board of Education to justify the ingenious transfers and dismissals was that the City of Hoboken needed to economize in 1932 and for some time prior thereto, as did every other municipality in this State, and that there had been a diminution of 760 pupils in four years. These facts, upon which this conclusion is attempted to be based, were likewise not disputed.

The Board of Education has contended in each stage of these proceedings that because of this state of fact a reviewing tribunal is debarred from inquiring into the circumstances surrounding the dismissals or the real motives actuating them. Nothing could be more erroneous in law or more contrary to the letter and spirit of tenure laws. As has been pointed out, the requirement of good faith is paramount even where a reduction in employees may be allowable. The opinion of the Supreme Court in *Carroll v. City of Bayonne*, 3 N. J. Misc. 308, 128 Atl. 235 (1925), fully disposes of any suggestion that the defendant Board of Education might have the right to thus select for personal reasons teachers for dismissal even though it was desirable for reasons of economy and because of a diminution of pupils to reduce the teaching force. In the *Carroll* case the Board of Commissioners of Bayonne passed a resolution

reducing the number of patrolmen and sought to justify its action on the ground that the positions of the patrolmen had been abolished for reasons of economy. In the course of its opinion the Court said:

“As the prosecutors were protected against removal by virtue of the Tenure of Office Act, they could not be removed except in the manner prescribed by the statute. To sanction the attempt of the board to accomplish in an indirect way the dismissal of the prosecutors from service by abolishing the position or office is to pave the way for the annihilation of the operation of the Tenure of Office Act altogether.

“Moreover, it is difficult to comprehend how the board could properly abolish the office of patrolman or of fireman as to some and not as to all. If the office of patrolman or of fireman had become wholly useless in the city of Bayonne, a populous city, an unlooked for ideal situation, then it becomes at once manifest that to retain some patrolmen and some firemen was the result of unjust discrimination on part of the board, based upon partisan reasons in the absence of any good reason appearing to the contrary” (3 N. J. Misc., at p. 310).

The opinion of the Supreme Court in this case tacitly admitted the existence of this principle, but, it is submitted, erroneously applied it.

This principle has been recognized by Courts of other jurisdictions in similar cases. An instructive case is *Sweeney v. School Committee of City of Revere*, 249 Mass. 525, 144 N. E. 377 (1924). There a statute provided that a teacher could be dismissed by a two-thirds vote of the School Committee. The School Committee consisted of seven members and by a vote of four to three dismissed Pollard, who was employed in the school system. Pollard appealed and introduced testimony which

disclosed that two of the members had been motivated in voting for his dismissal by political considerations and not by considerations relating to the efficiency of the school system. The Massachusetts Court ordered that Pollard be reinstated, and said (p. 378):

“A full perusal of the record clearly shows that at least Murray and Reilly, two of the members voting for the changes, were, in the case of Pollard, actuated by feelings of political resentment and ill will, more or less openly expressed and exhibited * * *. The votes of these respondents were not cast upon the merits of the question, whether the position held by Pollard should be abolished, in the interest of the public welfare, but were cast as a convenient and effective means of displacing him from the position because of his political views, which do not appear at any time to have been improperly expressed. The full committee, as we have said, consisted of seven members, and two members who opposed the change, having voted in the negative, the vote failed of the necessary two-thirds unless the votes of Murray and Reilly were counted.”

See also

School District No. 94 v. Gautier, 13 Okla. 194, 73 Pac. 954 (1903).

A contrary result would speedily accomplish the complete annihilation of all tenure rights. If a Board of Education desired to be rid of a tenure teacher for some personal and illegal reason, all that need be done would be to combine that teacher's class of thirty pupils with another teacher's class of like number on a pretext of economy, dismiss the first one, suffer along with the intolerable educational situation created by such a large class until after any litigation over the dismissal had

been decided favorably to it, and then appoint a new teacher of its liking.

To avoid such results and the destruction of the provisions and spirit of tenure rights, even assuming the right of a Board of Education to legitimately reduce its force, a Board must be held to an honest exercise of discretion in its selection and on a basis relative to the efficiency of the school system and to the extent or necessity of the reasons assigned, rather than to gratify its own personal desires to get rid of certain otherwise protected teachers. Its conduct must still be tested by the criterion of good faith and lack of discrimination. Otherwise the beneficial effects to the public and to the teachers of the tenure law are absolutely worthless in the very places in which it was intended to apply most stringently. More important, the inherent and prescribed right of every child in this State to a complete and efficient free public school education is seriously jeopardized.

The inherent duty of a Board of Education to maintain an efficient school system, along with simple justice and common decency to the teachers who have served a district so long and faithfully, dictates that where some reductions are definitely required they should be made on the basis of length of service, efficiency and reasonableness. They certainly cannot rest upon personal or partisan reasons, marriage or non-residence, having nothing whatever to do with the continued welfare and inherent purpose of a public school system. Such is the reasoning underlying the learned opinion of Justice Parker in *Seidel v. Board of Education of Ventnor City*, 110 N. J. L. 31 (Sup. Ct. 1933); affirmed on opinion below, 111 N. J. L. 240 (E. & A. 1933), where he considered that, while it is in the discretion of the board to select non-tenure teachers for discharge and tenure teachers

for retention, that discretion must be an honest and relevant one. In our case, that power of discretion has been most grossly abused.

Furthermore, under the statutory provisions permitting reduction of teachers in case of diminution of pupils, it is clear that any such reduction, where permissive, must be commensurate with the actual diminution. The statute (P. L. 1909, p. 399, 4 C. S. 4764) permits dismissals only "when such reduction *is due* to a natural diminution of the number of pupils in said school district." This criterion was applied by the Supreme Court in the recent case of *Board of Education of the Town of Kearny v. Horan*, 11 N. J. Misc. 751, 168 Atl. 132 (Sup. Ct. 1933), where the Court said that it was conceded that "the decrease in the number of pupils in the Kearny School District was not sufficient to justify the abolition of the positions of thirty-four teachers." Sound pedagogical practices as to size of class must be considered.

The undisputed facts here clearly show that there is absolutely no justification for the dismissal on this ground of the forty-one teachers.

In the school year 1931-1932 there were 271 pupils less than there were in the preceding school year. From 1928 to the date of the dismissals there had been a decrease of 760 pupils and a decrease of nine teachers. The average class in the Hoboken School District is thirty-six (S. C., p. 124). On the basis of thirty-six pupils in a class, the decrease of 760 might justify a decrease in the teaching force of twenty-one. In June, 1932, the defendant Board of Education dismissed forty-one teachers, which number included the thirty-four teachers here involved (S. C., p. 271), and seven retired (S. C., p. 258). There had previously been a net loss of nine teachers during the preceding four years (S. C., p. 124). The diminu-

tion since 1928 in the number of pupils in the Hoboken School District might justify a small reduction in the teaching force, but it could not possibly justify the dismissal, in 1932, of as many as forty-one teachers.

The resolution of dismissal cannot, therefore, be sustained on the ground of diminution of pupils as matter of law and is consequently illegal. The facts recited only serve to add to the force of the conclusion that the dismissal of these teachers was the result, in law, of unjust discrimination and bad faith.

The conclusion that the action of the Board of Education is justified on grounds of economy is likewise legally erroneous when the uncontradicted facts are considered.

Great stress was laid by the Board on the closing of the Steneck Trust Company in 1931 and the consequent freezing of over a million dollars of the city's money. It is now common knowledge, which this Court may notice, that since the argument in the Supreme Court that bank has been reorganized and reopened and the deposits, or a large portion thereof, made available to its depositors.

The *mala fides* of the Board's resolutions is clearly shown when it is seen that no other substantial reductions in the cost of education in Hoboken were made except by the transfers and dismissals of these teachers, all married and non-resident. There was no salary cut whatever of a horizontal nature or otherwise in the city (S. C., pp. 167, 170). Admittedly, the resolutions of the Board of Education at this fateful meeting of June 29th contain all the measures of economy which were adopted (S. C., p. 257, *et seq.*). It is an unusual and suspicion-directing method indeed which accomplishes economy by the outright dismissal of forty-one regular grade teachers, all of

whom are married or non-resident and thereby personally selected for the sacrifice.

Furthermore it is significant to note that several new teachers, not under tenure at the time of this action, had been appointed during the years for which the diminution of pupils was claimed (S. C., p. 227), and during the time when the economy cloud first appeared on the horizon. President Laverty's letters, including the one of as late a date as June 23rd (S. C., p. 33), refer to the fact that "the financial structure of this city is sound" and "that the Mayor raises revenue for salaries in a careful and constructive manner" when other school districts had deferred or defaulted. All his letters are directed not to securing economy by resignations of married teachers, but so that such women could be replaced by unmarried applicants, of which 123 were "on the Certified Monitress List who seek teacher placement" (S. C., p. 223). He demands the return of non-residents, not for purposes of economy of course, since they are promised retention even if they move back.

The testimony of the Commissioner of Finance and the City Auditor (S. C., pp. 162-164, 195) stressed that the first demands for economy came at a conference of city bondholders on June 27th. They stated that the dismissals were the result. In the extraordinary time of three days forty-one teachers were transferred and removed, but let it not be forgotten that these teachers were all married or non-resident against whom a campaign had been waged for months.

It is beyond question from the undisputed testimony that economy and diminution of pupils were but a sham to get rid of these married and non-resident teachers. It must always be remembered that the letters of dismissal assigned no reason whatsoever for the action of the Board.

The teachers therefore contend that their dismissals by the Board of Education were unlawful and in violation of the tenure of office provisions of the New Jersey School Law in that the dismissals were, as matter of law, the result of unjust discrimination, bad faith and for the illegal reasons of marriage or non-residence and that, even assuming a right to reduce the teaching force, the measures and methods adopted by the Hoboken Board were not legally justified by reasons of economy or diminution of pupils under the statute, amounted in law to a gross abuse of honest discretion and were not taken on any reasonable basis or proper motives. It is respectfully submitted that the resolutions of dismissal are therefore unlawful and should be set aside *in toto* and these teachers reinstated as of June 30, 1932, with all back pay to date plus interest.

POINT II.

The Supreme Court was correct in deciding that non-tenure teachers cannot be retained when tenure teachers are dismissed.

At the time of the dismissal of the prosecutrices-appellants, *eight* non-tenure teachers of elementary grades were still in the employ of the Board of Education (S. C., p. 113). It has been specifically held by the Courts of this State that a dismissal of tenure teachers under such circumstances is illegal, and therefore the resolution dismissing prosecutrices-appellants is unlawful and must be set aside and their reinstatement as of June 30, 1932, ordered. The Supreme Court held that *seven* of the dismissed teachers must be reinstated, following a similar conclusion of the State Board of Education. The Board of Educa-

tion has appealed to this Court from that determination.

In *Seidel v. Board of Education of Ventnor City*, 110 N. J. L. 31 (1932) the Supreme Court held that a board of education has no right to dismiss a tenure teacher while non-tenure teachers are employed even though there is no unlawful discrimination or bad faith, as there is in our case. In the course of its opinion the Court, through Mr. Justice Parker, said:

“Granting that apart from the statute, a school board may in the interest of economy reduce the number of teachers, the protection afforded by the statute would be little more than a gesture if such board were held entitled to make that reduction by selecting for discharge teachers exempt by law therefrom, and retaining the non-exempt. If such reduction is to be made at all, and a place remains which the exempt teacher is qualified to fill, such teacher is entitled to that place as against the retention of a teacher not protected by the statute.”

This case was affirmed by this Court on the opinion below, 111 N. J. L. 240 (E. & A. 1933), and was relied upon by the Supreme Court in the instant case.

It has been held that this rule applies also where dismissals have occurred as a result of diminution of pupils. *Board of Education of the Town of Kearny vs. Horan*, 11 N. J. Misc. 751, 168 Atl. 132, (Sup. Ct. 1933). The Court said:

“It is conceded that the decrease in the number of pupils in the Kearny school district was not sufficient to justify the abolition of the positions of 36 teachers; but it is claimed that sec. 3 of the Tenure of Office act, ch. 243, P. L. 1909, 4 C. S., p. 4764, in providing that ‘nothing herein contained shall be held to limit the right of any school board to reduce the number of principals or teachers

employed in any school district when such reduction shall be due to a natural diminution of the number of pupils in said school district' contained the authority for the action taken by the Kearny Board of Education, for the reason, as it is said, that the facts above set forth create a 'natural diminution' of the number of pupils and therefore justified the action. The opinion rendered by this court in *Seidel v. Board of Education of Ventnor City*, 110 N. J. L. 31, 164 Atl. 901, seems dispositive of the question. It was there held, as summarized in the syllabus, that a teacher in a public school, employed by general contract as such, who, by service for three years or more, has come under the protection of the statute providing for an indefinite period thereafter may not be dismissed for reasons of economy while other teachers not so protected, whose assignments such teachers are competent to fill, are retained under employment."

The principle of the *Seidel* case effectuates the purpose of the tenure of office act by preventing boards of education from dismissing tenure teachers while they retain non-tenure teachers. The statutory provision, that the tenure act shall not prevent a board of education from reducing the number of teachers in its employ when such reduction is due to a natural diminution in the number of pupils, was not enacted to permit boards of education to select teachers for dismissal on personal grounds nor was it passed to permit boards of education to dismiss tenure teachers while non-tenure teachers are retained. It was designed to prevent the tenure act from acting as a bar to the dismissal of teachers rendered unnecessary by a reduction in the number of pupils. Where, however, there is a reduction in the number of pupils and non-tenure teachers are employed, the statutory provision is not applicable for the desired reduction can be effected without interfering with the tenure act. As stated in the

Seidel case, under a contrary construction the protection given to teachers by the tenure act would be "little more than a gesture." See *Barnes v. Mendenhall*, 183 N. E. 556 (Ind. 1932), where the Court said:

"Such a contention as made by the appellees would permit the school board to nullify the so-called 'teachers' tenure act,' by the employment of non-tenure teachers and the discharge of tenure teachers even when the non-tenure teachers were filling teaching positions in the school which the tenure teacher was licensed to fill * * *. This theory of the law can not prevail."

The State Board of Education and the Supreme Court state that there were *seven* non-tenure teachers retained in employment. The uncontradicted testimony, however, discloses that there were *eight* non-tenure teachers retained (S. C., p. 113). This Court should rectify this error.

Although the Supreme Court recognized that the Board of Education had no authority to dismiss tenure teachers while non-tenure teachers were retained, it nevertheless held that the thirty-four teachers were properly dismissed except that seven of them to be selected by the Board should be reinstated. It is submitted, however, that a determination that the Board's action in dismissing the thirty-four teachers while it retained non-tenure teachers was unlawful, requires a reinstatement of the thirty-four teachers thus unlawfully dismissed. It is difficult to find any basis for the conclusion of the Supreme Court that although the Board of Education acted unlawfully in dismissing the thirty-four teachers it is nevertheless required to reinstate only seven of them. Since the Board's resolution dismissing the teachers was unlawful because of its wrongful conduct in this state of fact, the resolution must

be considered "non-existent in law" *in toto*. *Lassiter v. City of Atlantic City*, 86 N. J. L. 87 (Sup. Ct., 1917). The Board of Education should, therefore, have been directed to reinstate all of the thirty-four teachers; thereafter, if the defendant Board of Education desires to effect economies it should do so properly by first eliminating non-tenure teachers and then selecting for dismissal a proper number of tenure teachers on some such proper basis as was outlined in Point I.

It is, therefore, respectfully submitted that the order of the Supreme Court holding illegal the retention of non-tenure teachers at the time of dismissal of tenure teachers should be affirmed, but that because of this fact the resolution of dismissal is unlawful *in toto* and all the dismissed teachers should be reinstated.

POINT III.

The Supreme Court was correct in affirming the order of the State Board of Education ordering the payment of salaries for the months of July and August, 1932, in any event.

It is conceded by the Board of Education that in the event prosecutrices are reinstated they are entitled to be compensated from the time of their dismissal (S. C., p. 92). It is submitted, however, that regardless of whether or not prosecutrices are reinstated they are entitled to be compensated for the months of July and August, 1932. The Commissioner of Education and the State Board of Education both sustained this contention, the Commissioner saying:

"All of the appellants in this case were, prior to June 30, 1932, protected by the pro-

visions of the Teachers' Tenure of Office Act. Each was entitled to a definite annual salary. The records of their employment indicate that payment for July and August constitutes a part of the annual salary for the preceding fiscal year. Under this plan the teachers had not received at the close of any school year on June 30th the full amount of their annual salaries. At the close of the school year, the teachers had performed the services which entitled them to the full amount of their respective annual salaries. Each appellant, who has not received her full annual salary since September 1, 1931, is entitled to the balance, less deduction due to the teachers' Pension and Annuity Fund."

The Supreme Court reached the same result, saying:

"The teachers were under contract for a year's services and those services ran from September to the following June 30th. They had performed their work and we see no reason why they are not entitled to their compensation" (S. C., p. 311).

The Board of Education has here appealed from that determination.

Each of these thirty-four teachers was engaged under a contract providing for yearly compensation. Their only work was to teach school, and that was necessarily completed at the end of ten months.

Mr. Lewis, Secretary of the Board of Education, testified that the teachers received their annual salaries in semi-monthly installments except during the summer months of July and August, as to which months they received a single payment representing two months' salary (S. C., p. 130).

During the school year 1930-1931 and during preceding years, these teachers received their semi-monthly payments through June and then re-

ceived during the summer months a single payment representing the remainder of their annual salaries. During the school year 1931-1932 they likewise received their semi-monthly salaries and completed their entire year's work at the close of June. Despite the fact that they had completed their full year's work, the Board of Education has failed to pay these teachers for the months of July and August, 1932.

It seems entirely clear that even if the dismissal of the teachers were lawful they would nevertheless be entitled to compensation for July and August, 1932. A person employed at an annual rate to do certain work may, as a matter of convenience be paid semi-monthly. Surely, if, as here, her full year's work is necessarily completed two months before the close of the year, she is entitled to be paid for the remaining two months.

It is respectfully submitted that the Supreme Court should be affirmed in holding that, in any event, these teachers are entitled to be compensated for the months of July and August, 1932. The teachers are also entitled to interest for the unlawful withholding of this salary.

Conclusion.

For the reasons herein urged it is respectfully submitted that the dismissal of these teachers was unlawful and in violation of the tenure of office provisions of the New Jersey School Law and that the Supreme Court erred in not ordering their reinstatement and that the judgment of the Supreme Court be affirmed in all other respects.

Respectfully submitted,

ARTHUR T. VANDERBILT,
Attorney for and of Counsel with Prosecu-
trices-Appellants Angelina Koch Downs
and Rai Driesen Flechtner.

133 MAY. T. 1934

134 MAY. T. 1934

135 MAY. T. 1934

136 MAY. T. 1934

New Jersey Court of Errors and Appeals

BOARD OF EDUCATION OF THE DISTRICT
OF HOBOKEN,
Prosecutor-Appellant,
vs.

ANGELINA KOCH DOWNS and STATE BOARD
OF EDUCATION,
Defendants-Appellees.

BOARD OF EDUCATION OF THE DISTRICT
OF HOBOKEN,
Prosecutor-Appellant,
vs.

RAI DRIESEN FLECHTNER and STATE BOARD
OF EDUCATION,
Defendants-Appellees.

ANGELINA KOCH DOWNS,
Prosecutrix-Appellant,
vs.

BOARD OF EDUCATION OF THE DISTRICT OF
HOBOKEN and STATE BOARD OF EDUCATION,
Defendants-Appellees.

RAI DRIESEN FLECHTNER,
Prosecutrix-Appellant,
vs.

BOARD OF EDUCATION OF THE DISTRICT OF
HOBOKEN and STATE BOARD OF EDUCATION,
Defendants-Appellees.

On Appeal from
Supreme Court.

On Certiorari.

BRIEF FOR PROSECUTOR-APPELLANT BOARD OF EDUCATION OF THE DISTRICT OF HOBOKEN.

Statement of Facts.

The Supreme Court, by a decision reported in 12 N. J. Misc. 345, on certiorari, affirmed an order of the State Board of Education (S. C., p. 304 *et*

seq.) sustaining the dismissal by the prosecutor-appellant of thirty-four public school teachers in the District of Hoboken, but ordered that of the thirty-four school teachers who were dismissed seven of them who had tenure were to replace seven teachers who at the time of the action of the Board of Education of the District of Hoboken had no tenure, and also ordered the Board of Education of the District of Hoboken to pay salaries to all the teachers who were dismissed for the months of July and August, 1932.

This is an appeal by the prosecutor-appellant, Board of Education of the District of Hoboken, from the judgment of the Supreme Court wherein it ordered the seven tenure teachers to take the place of seven teachers who had no tenure and wherein it ordered all teachers to be paid salaries for July and August, 1932. All the teachers who were dismissed have likewise appealed to this Court from those portions of its judgment wherein it sustained the Board of Education of the District of Hoboken in its action dismissing said teachers. For the purposes of expediency and to facilitate expression, prosecutor-appellant, Board of Education of the District of Hoboken will hereafter be referred to as "Board of Education" and prosecutrices, Angelina Koch Downs and Rai Driesen Flechtner and the other thirty-two teachers represented by them will be referred to as "the teachers."

In the years 1928 and 1929 there were nine elementary schools in the School District of the City of Hoboken, with 6,704 pupils in attendance (S. C., p. 121). In the year 1929 to 1930 there were 219 pupils less (S. C., p. 121). In the year 1930 to 1931 there were 270 pupils less in attendance than the previous year (S. C., p. 121). In the year 1931 to 1932 there were 271 pupils less in attendance than the previous year (S. C., p. 121).

In the year 1932 to 1933 there were 505 pupils less in attendance than the previous year (S. C., p. 121).

In other words, there were, in 1928, 6,704 pupils in the elementary schools (S. C., p. 121). In the current year, 1932, there were only 5,431 pupils (S. C., p. 116).

In the school year 1928-1929, there were 205 teachers in the elementary schools (S. C., p. 123). In the school year 1929-1930, although there were 219 less pupils than the previous year, there were 204 teachers (S. C., p. 123). In the 1930-31 school year, although there were 270 pupils less than the previous year, the number of teachers were the same, viz.: 204 (S. C., p. 123). In the 1931-32 school year, when there were 271 less pupils than the previous year, the elementary schools still had 196 teachers. In those three years, although there was a decrease and diminution of 760 in the number of pupils in the elementary schools, there were only nine teachers less.

In other words, at the end of the school year 1931-32, there were 760 vacant seats in the elementary schools (S. C., p. 123). There were also five vacant classrooms with 170 seats (S. C., p. 123), making a total of 943 vacant seats in the elementary schools as of the close of the school year 1931-32 (S. C., p. 123).

The Board of Education made no use of any of these vacant classrooms or vacant seats and no teachers were assigned to them (S. C., p. 123).

The per capita cost per pupil for teacher salary, according to the bulletin issued by the Department of Education of the State of New Jersey for April, 1932, was \$112.36 (S. C., p. 178) and such per capita cost was the highest in Hudson County and second in the State of New Jersey, when compared with cities that were comparable with Hoboken (S. C., pp. 181-182). These

relative positions and the cost per capita had existed for at least the past five years (S. C., p. 182).

This diminution in the number of pupils was a natural diminution, not due to any epidemic or extraordinary situation, but entirely due to the loss of population (S. C., p. 125). The population of the City of Hoboken ten years ago was approximately 75,000 (S. C., p. 125). The population of Hoboken, at the present time, is approximately 56,000, a loss in round numbers of about 19,000 (S. C., p. 125).

On June 30th, 1931, the City had on deposit with the Steneck Trust Company of Hoboken, in various accounts, the sum of \$1,259,713 (S. C., p. 157). This sum total represented all the moneys of the City available for municipal and educational purposes. On this date the Steneck Trust Company was closed by the Commissioner of Banking and Insurance and still remained closed at the time of the hearing (S. C., p. 157). Up to the hearings, the City and Board of Education have been unable to obtain, from the Commissioner of Banking and Insurance, any of said moneys (S. C., p. 165).

When the Steneck Trust Company was closed, the checks and salary warrants, for the teachers and municipal employees had been drawn and issued, and consequently were not honored or paid, due to the closing of the Steneck Trust Company. It became necessary for the City, at once, to borrow money to meet these outstanding checks and salary warrants that had been given to the teachers and employees.

From that time on, in order to obtain the necessary money to pay the school teachers and the other municipal employees, the City was obliged to borrow money on its tax anticipation notes and bonds.

The City was obliged to go from bank to bank, to wit: The Trust Company of New Jersey, Hoboken Bank for Savings and Hudson Trust Company, and even to individuals (S. C., p. 159), paying six per cent interest, which amount of interest it had never been obliged to pay theretofore.

The City was also obliged to urge the larger taxpayers to make payments in advance, thereby allowing them interest.

The City was obliged to borrow money to meet every payroll on the 1st and 15th of each month (S. C., p. 159).

The plight of the City became most acute on account of this borrowing. It had issued tax anticipation notes and bonds to the extent of \$1,752,000 and the various banks refused to loan any more money to the City (S. C., pp. 159-160).

In order to borrow these various amounts, the financial representatives of the City had many conferences with the different bankers and the bond and note holders (S. C., pp. 159-160).

In December, 1931, the City advertised for sale its tax revenue bonds, in the sum of \$1,975,000 but failed to receive any bid or bids therefor whatsoever (S. C., p. 161). At that time, the City had outstanding, in tax revenue and tax anticipation bonds and notes, \$2,749,000 (S. C., pp. 161-162).

The schools could not be operated and the salaries paid if it had not been for the receipt, by the Board of Education, of State school moneys, amounting to \$266,766.07, on January 6, 1932, which enabled the Board of Education to pay salaries for January, February and March of 1932 (S. C., p. 162). At the same time, the City salaries were being paid from the taxes that were being received at the beginning of the new year (S. C., p. 162).

In addition thereto, the City issued emergency bonds, in the sum of \$550,000, in order to meet the

demands of the bankers. This money was used to reduce some outstanding obligations. Further than this, the City issued \$40,000 emergency bonds and \$460,000 tax revenue bonds on April 7th, 1932. This money was used to reduce outstanding obligations and, as a result thereof, the bankers gave the City a breathing spell to June, 1932 (S. C., pp. 162-163).

In June, 1932, the City was again compelled to borrow \$175,000 on tax anticipation bonds, and this, together with tax collections and with the prepayment of the 1932 taxes, on which a discount was allowed by the City, enabled the City to meet the requirements of both the schools and the City (S. C., p. 162). The City Commissioners were constantly getting calls from the representatives who held Hoboken paper, which was now virtually and practically overdue, to do something about the paper, and, as a result of these calls, a conference was called in the office of Hawkins, Delafield and Longfellow, bonding attorneys in the City of New York, at which the bondholders, or their representatives, were present (S. C., p. 162). This conference lasted practically all day and the bonding and banking interests refused to give the City of Hoboken any more money regardless of what was offered them (S. C., p. 162). They were even offered seven per cent interest, but the conference broke up without the City obtaining any relief or other credit.

Another conference was held on June 27, 1932, at the office of Hawkins, Delafield and Longfellow, which conference was called for the purpose of endeavoring to obtain a renewal of the outstanding bonds and notes that became due on June 30, 1932, which, if not granted, would place the City in default and impair its credit (S. C., pp. 162-195). At this conference the bankers, bondholders, and Mr. Meystre, President of the

Hoboken Bank for Savings, which institution had been loaning money to the City of Hoboken, insisted that there be a saving and reduction in the cost of the operation of the Hoboken schools, which they claimed was unwarrantably high (S. C., p. 163).

Likewise a Philadelphia banker contended that the cost of operating the Hoboken schools was excessive (S. C., p. 162).

This excessive cost of operating the schools was the main point brought up by the bankers (S. C., p. 163).

As a result of this conference, and not receiving any further assistance from the banks, the City Commissioners called in the President and Secretary of the Board of Education and explained to them the requirements insisted upon by the bankers and bondholders, that the cost of operating the schools be reduced (S. C., p. 163).

At this conference between the City Commissioners and representatives of the Board of Education it was decided to close two schools in the City of Hoboken, with an estimated yearly saving of approximately \$200,000 and a saving during the balance of the year 1932 of \$100,000 (S. C., p. 197). This was reported to the bankers and bondholders.

To carry out the decision made by the City Commissioners and representatives of the Board of Education, the Board of Education met on the evening of June 29th, 1932. At this meeting the Superintendent of Schools submitted a communication to the members of the Board of Education in which he set forth that he had made transfers of principal, vice-principal, clerks, teacher-clerks, and teachers, subject to the approval of the Board of Education, which action of the Superintendent was ratified, confirmed and approved by the full Board. Thereafter, at said meeting, the Board

of Education passed a resolution closing Public Schools No. 4 and No. 7, discontinuing and abolishing the classes therein on June 30th, 1932. It also passed a resolution that the pupils heretofore attending classes in said Public Schools Nos. 4 and 7, which had been ordered closed on June 30th, 1932, be transferred and allocated to such schools as would be most available for their education. It also passed a resolution that the positions or offices of principals and teachers in said Public Schools No. 4 and No. 7, enumerating them, be permanently abolished, and the duties thereof dispensed with, discontinued and terminated on June 30, 1932. It also passed a resolution permanently abolishing the positions or offices of three medical inspectors, of an optician and of a school nurse, dispensing and discontinuing their duties on June 30th, 1932. It also passed a resolution that the Custodian of School Money, William H. Gilfert, who was the Director of the Department of Revenue and Finance of the City of Hoboken, should not receive any salary whatsoever for his services as such Custodian of School Money. Further resolutions were passed by the Board for the purpose of economy. These resolutions are part of the certified resolutions referred to on pages 262 to 275 of the State of Case.

On December 15th, 1932, the Commissioner of Education decided that twenty-six teachers who were transferred into Schools 4 and 7 before their closing were illegally dismissed and directed that they be reinstated, but decided that the seven teachers and principal in schools 4 and 7 at the time of their closing were properly dismissed and sustained the Board of Education in its action in dismissing them. The Commissioner of Education, however, decided that the twenty-six teachers who were directed to be reinstated were

to be paid their salaries for July and August, 1932, and also directed that the seven teachers and principal whose positions were held to be legally abolished were to be paid their salaries for July and August, 1932.

On an appeal to the State Board of Education, the State Board reversed the State Commissioner of Education and determined that the Board of Education of Hoboken was within the law in its dismissal of the entire thirty-four teachers and that the said members of the Board used their discretion and that their judgment could not be said to be an abuse of said discretion, but sustained the Commissioner in his determination that all the teachers were to be paid for July and August, the two months subsequent to their dismissal, and also held that the seven non-tenure teachers who were retained should be replaced by seven tenure teachers who had been dismissed, the seven tenure teachers to replace the non-tenure teachers to be determined and selected by the Board of Education of Hoboken.

The Board of Education certioraried to the Supreme Court the action of the State Board of Education wherein the State Board ordered teachers to be paid their salaries for July and August, 1932, and also that part of its finding with regard to replacement of non-tenure teachers by tenure teachers. The teachers also certioraried to the Supreme Court the action of the State Board of Education in reversing the State Commissioner of Education in holding as valid the action of the Board of Education in dismissing the thirty-four teachers.

The Supreme Court handed down its opinion in March, 1934, affirming the conclusions of the State Board of Education (S. C., p. 304, *et seq.*). Both the teachers and the Hoboken Board appeal to this Court each assigning as grounds of appeal

(S. C., pp. 318-325) that the Supreme Court erred in affirming those portions of the order of the State Board of Education unfavorable to them. Because all the cases arise out of the same situation, counsel have stipulated that they shall be presented and considered together (S. C., p. 326).

ARGUMENT.

POINT I.

The Supreme Court was correct in affirming the decision of the State Board of Education wherein it determined that the dismissal of the teachers was not unlawful and was not in violation of the tenure of office provisions of the New Jersey School Law and Chapter 243 laws of 1909, C. S., p. 4763.

The tenure of office applicable to school teachers, employed for three consecutive years, found in the school law, contains a provision *not found* in the tenure of office provisions in Chapter 152, Laws of 1917, applicable to policemen and firemen, or to honorably discharged soldiers and sailors, contained in Chapter 14, Laws of 1907, or in any other tenure of office act.

The legislature saw the necessity of not having the tenure of office apply to school teachers when their services were unnecessary due to a natural diminution of the number of pupils in the school district, and we find, in Section 106C of the School Law, C. S., page 4764, the following most positive and emphatic statement, to wit:

“Nothing herein contained shall be held to limit the right of any school board to reduce the number of principals or teachers employed in any school district when such reduction shall be due to a natural diminution of the number of pupils in said school district.”

When there exists this natural diminution in the number of pupils, the school board is authorized to reduce the number of principals or teachers, and there is nothing to restrict or prevent this reduction in the event of such diminution of pupils in the school district. This situation causes the decisions of our courts in the cases of firemen, policemen, honorably discharged soldiers, etc., such as *Carroll v. Bayonne*, and others, to be inapplicable to the pending case.

In the pending case, the natural diminution in the number of pupils in the school district of the City of Hoboken was not disputed or controverted. In the school year 1928-29 there were 6,704 pupils in attendance. The testimony clearly shows that, for the school years, 1928-29, 1930-31 and just before the meeting of June 30th, 1932, there was a natural diminution in the number of pupils of over 760, and only a reduction in the teaching personnel to the number of nine. It is quite evident that the teaching personnel was more than necessary for the number of pupils in attendance in the elementary schools, and that the Board of Education could easily dispense with the services of a great number of teachers without affecting the efficiency of the educational system of our City. In this regard, the prosecutor-defendant, Board of Education, desires to point out that, in the past ten years, according to the record (S. C., p. 125), the City had lost approximately 19,000 in population, which was almost 25% of the population ten years ago.

The record also shows that, at the end of the school year 1931, there were 760 vacant seats in the elementary schools, 5 vacant classrooms with 170 vacant seats, making a total of 943 vacant seats (S. C., p. 121). This situation existed despite the closing of the two schools. In other words, the seven remaining elementary schools are

functioning today with approximately 940 vacant seats for which there are no pupils.

The situation thus existing in the School District of the City of Hoboken had been anticipated by the Legislature when it enacted the tenure of office for the school teachers. In its wisdom it foresaw this very situation. In order that no school district should be obliged to carry and provide for unnecessary teachers, where there had been a natural diminution in the number of pupils, it specifically and positively enacted by said Section 106C, that nothing contained in the tenure provision should, in any manner, limit, restrict or prevent the school board from reducing the number of its principals and teachers.

It is therefore manifest that all arguments and decisions made or passed upon other tenure of office acts did not apply to said Section 106C.

Section 106C of the School Law, C. S., page 4764, with regard to diminution of pupils has never been construed in New Jersey. Since 1909 when said Section 106C was enacted into a law there have been scarcely any communities or school districts in New Jersey where there has been a diminution of pupils. On the contrary communities have increased in population in New Jersey. Hoboken is an exception where there has been a tremendous loss of population and coincident with such loss, a profound diminution in attendance in the elementary schools. There has been no occasion heretofore to construe said Section 106C because of the facts stated above.

Before 1909 the Board of Education in a school district had the right, privilege and a great discretion when it came to reducing its number of teachers. The Board had the power to go into any part of its school district and reduce its teaching staff if it felt that the circumstances required it to do so. The enactment of Section 106C of

the School Law, C. S., page 4764, did not limit the right that a Board of Education previously had. It was never intended to restrict this power. Section 106C is in addition to the rights the Board had under pre-existing law. In no tenure act anywhere do you find a similar declaration or provision. The natural inference is that the Legislature, by its express provision, which is found in no other tenure law, intended that the section should have come significance, and that significance is that the Board shall not be limited in any way in the reduction of its teachers.

There is no ambiguity whatsoever to be found in Section 106C. The reduction in the number of principals and teachers when there has been a natural diminution in the number of pupils in the school district is positively authorized. Further, the methods to be employed in making such reduction are not specified or set forth and the means of such reductions are left entirely to the judgment, discretion and action of the School Board. In the case at Bar the record shows that the Superintendent communicated to the Board of Education in writing that he had made certain transfers whereupon the Board approved his action. There is nothing in the record to show that the Board participated in any manner in the selections for transfer made by the Superintendent, in his position as Superintendent, except to ratify the action of the Superintendent as required by law. The Superintendent of Schools, in his judgment, had recommended these transfers to these two schools which were to be closed so that when the schools were closed the teachers to be affected by the reduction would be in those two schools and in that manner there would be an orderly closing of schools and an orderly reduction in the number of teachers. The Prosecutor-defendant, Board of Education, contends that the transfers

were not at all necessary but were merely incidental to the right of the Board to use its discretion and judgment in selecting teachers to be dismissed. Without the transfers the Prosecutor-defendant contends that the Board could have gone into any school in the school district and selected teachers to be let go and that when it transferred them into one place it was merely done for the purpose of facilitating an orderly dismissal of the teachers who were to be let go.

POINT II.

The Board of Education has the right to reduce the number of principals and teachers in the school district where such action is taken in good faith and for the purpose of economy, notwithstanding the tenure of office provisions of the New Jersey School Law, or tenure under any Veterans Act.

The City of Hoboken was confronted with a financial crisis brought about by the closing of the Steneck Trust Company, by the Commissioner of Banking and Insurance, on June 30th, 1931. It thereby had been deprived of all its available funds, totaling \$1,259,713.06, even including the moneys it had in its Sinking Fund.

It did not even have sufficient money to meet the outstanding checks issued to the school teachers and employees for the second half of the month of June, 1931, or to meet the checks or salary warrants that had been issued to the other municipal employees at the end of June, 1931, and was compelled to borrow immediately for that purpose.

Carrying out its customary practice, the City borrowed \$450,000 in order to make advance pay-

ments of the teachers' salaries for July and August. The City, to save itself from financial disaster and to maintain its credit, was thereafter obliged to borrow money to pay all of its employees, including the teachers, and to make all other necessary payments up to the present time, as is more particularly detailed in the statement of facts.

A crisis arrived at the end of June 1932, when the bond and note holders refused to grant any renewals, and the bankers refused to loan any more money to the City, unless a reduction was made in the cost of operating the Hoboken schools (S. C., pp. 163-196-7).

The bankers specifically pointed out that the per capita cost of operation of the Hoboken schools was excessive and insisted upon its reduction. There is no question but what the bankers were correct, as Hoboken's cost was the highest in the County and second highest in the State, being \$112.36 per capita. The demands of the bankers had to be complied with. Otherwise the City of Hoboken would have defaulted in the payment of its bonds and notes and been unable to obtain financial assistance.

This crisis required the most immediate action because the renewals of the City's outstanding paper had to be effected by June 30th, 1932, while the demands of the bond and note holders and the bankers were made but three days prior thereto, to wit: at the conference on June 27th, 1932.

Under the foregoing conditions and the then existing situation of the City government, the action taken by the Board of Education, in closing two of its unnecessary schools, reducing its number of principals and teachers and terminating their services was a legitimate exercise of municipal power, notwithstanding the tenure of

office provision of the School Act. *Evans v. Freeholders*, 53 N. J. L. 585; *Beirne v. Jersey City*, 31 Vr. 109; *Sutherland v. Jersey City*, 32 Vr. 436; *Caulfield v. Jersey City*, 34 Vr. 148; *Stivers v. Jersey City*, 41 Vr. 606; S. C. on Error, *Id.* 1827; *Harker v. Bayonne*, 85 N. J. L. 176; *Doyle v. Secaucus*, Page 334, N. J. Misc. Reports of 1932; *Moser v. Board of Commissioners of North Bergen*, Page 315, N. J. Misc. Reports of 1932; *Gordon v. Jefferson Township Board of Education*, 1925 Compiled School Law, 563; *Paddock v. Hudson Tax Board*, 82 Law, 360; *Colgarry v. Board of Street and Water Commissioners of Newark*, 89 Atlantic Reporter, 789.

The natural diminution in the number of pupils existed in the City of Hoboken similar to, but on a larger magnitude than, the diminution of pupils mentioned in the case of *Tobey v. Board of Education of the City of Newark*, page 161 of the School Law Decisions of 1928.

Can there be any question as to the good faith, for the purpose of economizing, on the part of the Board of Education of the School District of Hoboken in its action. The record clearly shows that there was a necessity for its action and that by its action, the Board has saved approximately \$200,000. Not only was the reduction in the number of teachers, but the record clearly shows that on the same day, other economies were effected, such as medical inspectors, optician, nurse, and even one of the City Commissioners, who was Custodian of School Moneys, had his salary as Custodian of School Moneys taken away from him. There were also several transfers made in the public schools for the purpose of further economy. Moreover, as the record shows and as is a fact, no teachers were appointed for the school year 1932 to replace those removed. Their positions no longer existed.

Counsel for the teachers in his brief states that no other economies were effected but the above references to the testimony disclose that there were a great many other economies effected. As a matter of fact the schools are still closed, there have been no appointments of any teachers and there have been no restorations to any of the places made vacant at the time of the action of the board and since the action of the board there have been a great many other economies in the City of Hoboken, such as a horizontal cut in salary for all employees of the City and also of the Board of Education. This has been in effect for some time and is still in effect.

Under the law, if the economy effected by the municipal board or body is a real economy and not a mere device to remove any certain person or persons, in violation of the tenure act, such economy should be upheld by the Court.

To quote the language of the Court in *Paddock v. Hudson Tax Board*, 82 N. J. L. 360, cited above, the Court said:

“The very spirit of good government intends that useless offices drawing revenue from a municipality or state should be abrogated, and it would be regarded as a betrayal of a solemn trust for a body politic to convert offices contemplated under the Civil Service Law into sinecures or pension places.”

Would the law, in these times and in the situation in which the City of Hoboken has been placed by all of its financial troubles, sanction the return of thirty-four teachers, or any number of them, when they would have no pupils or classrooms to be assigned to them, with no services to be rendered, and thereby drawing from the City revenue which it cannot pay? There would be no places for the teachers and no classes for them, as the present staff of teachers are legally holding all of their positions.

The counsel for the teachers has discussed at length the case of *Carroll v. Bayonne*, 3 Misc. Reports 311. In the opinion of the Board of Education this case is in line with the cases cited by the Board hereinbefore, that, where there has been a reduction in the cost of government, the tenure of office will not be a defense. In the *Carroll* case, there was no testimony showing that it was a true economy. The Court said:

“The facts of this case distinguish it very clearly from those cases cited in the brief of the defendant’s counsel, holding that neither the Veterans’ act nor the Tenure of Office Act prevents a municipality, in the interest of efficient and economical administration, from reducing the number of employees. The facts as disclosed by the testimony, do not present the essential features, which prevent the application of either statute to the attempt to remove the prosecutors from office.”

POINT III.

The transfers of the teachers from other schools into schools 4 and 7 by the superintendent with the ratification by the majority of the Board of Education were legal.

According to the testimony in the record the Superintendent communicated to the Board of Education at its meeting on June 29, 1932, that he had transferred the teachers from various schools in the school district of the City of Hoboken to schools 4 and 7 and had transferred out of schools 4 and 7 into the remaining schools in the school district of Hoboken other teachers and requested the Board’s approval and ratification of his action. The Board of Education by unanimous vote approved, ratified and confirmed the action of the Superintendent thereby making the action of the

Superintendent the action of the Board of Education. There cannot be any question that the school board had the right to make transfers of teachers and principals. Under the 68th Section of the School Law, C. S., page 4744 the Board had the right to make transfers of principals and teachers. The State Board of Education used the following language in the opinion which sustained the action of the Board of Education in making the transfers of the teachers involved in this action:

“The powers of a Board of Education in the management and control of a school district are very broad. It is invested with the supervision, control and management of the public schools and public school property in its district. It may make, amend and repeal rules, regulations and by-laws, not inconsistent with the school law, or with the rules and regulations of the State Board of Education, among other things, for the employment and discharge of principals and teachers. By section 68 of the School Law, it is authorized by a majority vote of the whole number of its members, to appoint, transfer or dismiss principals and teachers. These powers are limited, as to the employment and discharge of teachers, only to the extent therein provided, by the Teachers’ Tenure Law, Chapter 243, P. L. 1909. The right to transfer a teacher seems to rest, therefore, wholly in the discretion of the Board of Education. Conceding that when the 26 teachers in question were transferred from their various schools to Schools Nos. 4 and 7, the Board of Education had already determined to close those schools, did that purpose make the transfers illegal? We think not. The Board had unlimited right to transfer; it also had the right, as we shall hereafter declare, to dispense with the services of such number of teachers in the district as it should, in good faith, deem necessary to effect the economies which its financial situation demanded, and whose services

were no longer necessary because of the diminution in the number of pupils. It could have selected the teachers whose services were to be terminated from the school district at large. It chose to so select such teachers, and, before terminating their employment, transfer them to Schools Nos. 4 and 7, to fill the places of teachers transferred from those schools."

The Supreme Court in its opinion practically used the same language as the State Board of Education in its opinion set forth above. The Supreme Court took the same view as the State Board of Education with regard to the power of the local board of education in its right to transfer a teacher, and also agreed with the State Board of Education with regard to the right of the local school board to select from the entire school district any teachers that it desired to dismiss where it was done for economy and where there is a diminution of the number of pupils.

If it is conceded that the Board had the right to make these transfers, then the interval of time between the 29th of June and the 30th of June, when the schools 4 and 7 were ordered closed, and the positions of the teachers in those schools at the time of closing were abolished, makes no difference in principle. If the transfers of the Board can be attacked because there was only an interval of one day between the transfers of the teachers into schools 4 and 7 and the abolition of their positions, then the transfers can be attacked if they were made a week or a month or even a year in advance. The prosecutor-defendant, Board of Education, contends that they had the power of transfer under the school law and that there was no restriction or limitation to their power of transfer and the interval of time does not change their rights nor does it change the principle involved.

As it has already been stated, the Board of Education contends that the transfers were not at all necessary, but were merely incidental and secondary to the right of the Board to go into any school in the school district of Hoboken and select those teachers it desired to let go, but that the transfers were merely resorted to for the purpose of following an orderly procedure in letting the teachers out.

POINT IV.

The action of the Board of Education which had the right to transfer and the right to close the Schools 4 and 7 and reduce the number of teachers and principals because of a natural diminution of pupils should not be nullified unless there is fraud or abuse of discretion.

“The State may and sometimes does prescribe in what mode or manner a municipal corporation shall exercise its powers. If the statute or charter conferring the municipal power prescribes the manner in which it shall be exercised, it is generally mandatory and exclusive of other methods, whether the power be considered governmental or proprietary and this rule is especially applicable where there are negative words in effect prohibiting the doing of the thing unless it is done in the manner prescribed; and even where, by express terms and provisions of a charter, a municipal corporation reserves to itself the right to exercise the power conferred by statute which statute provides a specific and exclusive method of procedure for the exercise of such power, the corporation should exercise such power in accordance with the terms and conditions of the statute conferring the same. On the other hand, if the mode of exercise is not prescribed under the act or charter conferring the power

or in some other statute the corporation may exercise the power in any usual and appropriate manner according to its own discretion but the mode of exercising the power chosen by the corporation must be reasonable. The Courts, however, are averse to substituting their own discretion for that of the municipal authorities and will do so only in case of manifest abuse of discretion. The presumption is in favor of the validity of the mode adopted by municipal authorities. What will constitute a reasonable mode of exercising the power depends on the facts and circumstances of each particular case. The mode of exercising a legislative power by a municipal corporation is a municipal affair." 43 C. J., pages 248-249-250 and the cases thereunder.

"The action taken by a municipality in the exercise of its powers and the methods used will not be controlled by the Courts where there is no abuse of discretion. All doubts as to the propriety of the means used in the exercise of a municipal power will be resolved in favor of the municipality." *Southern Utility Co. v. Palatka*, 86 Fla. 583, 603.

"Where a municipality is duly authorized to exercise a particular municipal function and the manner of the exercise of the authority is not defined by statute, it is left to the City Council. The Courts will not undertake to control the manner of the exercise of the authority by the City Council where no applicable rule of law is violated and the authority is not exceeded or abused." *Perry v. Panama City*, 67 Fla. 285-288.

There cannot be any question but that the Board of Education is charged with the duty and responsibility of operating the school system of the City of Hoboken and has the right to exercise its discretion in matters pertaining to such operation and maintenance as it appears from the above authorities. Conceding to the Board that it had discretionary powers and there being nothing in the law setting out the manner in which that dis-

cretion should be exercised, it appears that the Board of Education's action should be sustained unless there is evidence of fraud or abuse of discretion. The testimony shows that at the close of the school year, 1932, there were approximately 196 teachers in the elementary schools of Hoboken. It also shows that there were about 100 teachers who were in the category of married, non-resident or both. Where there are approximately 100 teachers included in that classification out of a total number of 196 teachers, such a group must necessarily be affected where there are going to be 34 positions abolished. It cannot be said that the Board of Education abused its discretion where there are still 66 teachers remaining in the public schools of Hoboken who come in the classification of married, non-resident or both, and particularly in view of the further fact that the record shows that there are still close to 800 vacant seats together with 5 vacant classrooms. As a matter of fact the Board of Education would be justified in abolishing a great many more positions of the teachers in the elementary schools. In the absence of anything in the law and in the absence of anything under section 106C of the School Law, C. S., page 4764, setting up a method by which a reduction should be effected where there has been a natural diminution of pupils, how can it be said that the Board exceeded its authority or abused its discretion? The law fails to designate what teachers should be dismissed, what standard should be set up before the Board decides to dismiss a teacher or abolish her position. Of necessity the responsibility falls upon the Board to use its own judgment. Having been confronted with this situation and problem what teachers should the Board have selected to leave out of the public school system? Should it have selected those teachers who were in service a long period of time or a short period

of time? Should it have selected teachers who were married or unmarried? Should it have selected resident or non-resident teachers? Were they to be chosen according to their efficiency and ability or by lot or as to their dependents or non-dependents? In the absence of any designated method by law, the Board of Education would have been charged with discrimination regardless of what method it followed or whom it selected. It may be true that, in individual cases, one may differ with the judgment of the members of the Board of Education, but nevertheless even though there be a disagreement as to judgment unless that judgment of the Board amounts to abuse or to fraud, the law will not permit the substitution of someone else's judgment for that of the members of the Board of Education who are charged with the responsibility and duty under the law to exercise their honest judgment and discretion. The question was raised that teachers should be either retained or let go according to their standing. There is no such standing recognized by the law in this State. Once a teacher receives a certificate permitting and authorizing her to teach in our school system, she is considered, as far as the law is concerned, as capable as any other teacher. It would indeed be a most difficult matter and almost impracticable for a Board of Education or any public body, where it is called upon to use its discretion, to go into the various phases of a teacher's life such as has been argued by counsel for the teachers. It might be that the members of the Board in deciding that married teachers should be let go, thought they could stand the loss of their positions more easily than unmarried teachers in view of the fact that they had husbands who presumably were supporting them. It might be that the members of the Board decided that in letting non-residents go that the non-resi-

dents were of no economic value or benefit to the school district of Hoboken and to the City. There may be persons who will disagree with that judgment of the Board and a great many people who will agree with them, but unless the Court determines that that judgment was so palpably abused or was fraudulent, the judgment of the members of the Board should stand, as the responsibility is theirs. As long as their purpose which terminated the services of the teachers was a bona fide one and was to save money their action should be sustained.

The State Board of Education in disposing of the charge of discrimination raised by the teachers used the following language:

“We are satisfied the controlling purpose of the Board was to effect economy and to terminate the service of the number of teachers no longer necessary because of the diminution of pupils. The Board had unlimited discretion in the selection of the teachers to be dropped. They chose to select such as were married, and/or non-resident, giving preference in continued employment to residents of the school district and to those who would normally be dependent upon themselves for a livelihood. We cannot say to do so was an abuse of discretion or evidence of bad faith” (State *vs.* Kennelly (Conn.), 55 Atl. Rep. 555).

“Can we go behind the record of the proceeding and the action of the Board to question the motives which actuated its members? The general principle appears to be against such proposition.

“So long as a * * * Board of Education * * * acts within the authority conferred upon * * * it by law, the courts are without power to interfere with, control or review * * * its action and decisions in matters involving the exercise of discretion, in the absence of clear abuse thereof * * * nor is the wisdom or expediency of an act, or the

motive with which it was done, open to judicial inquiry or consideration, where power to do it existed.'

"Even though motive was corrupt or the act was done for the purpose of spite or revenge, an action of the Board is immune from judicial interference if it is within the range of the Board's legal discretion. (*Iverson vs. Springfield, etc., Union Free High School Dist.*, 186 Wis. 342, 202 N. W. 788.

"The right of the Board to transfer teachers being absolute, the fact the Board had in view the closing of the school to which the teacher was transferred, and to terminate her employment does not affect the legality of such transfer, and we conclude that the transfers of the 26 teachers to Schools Nos. 4 and 7 were lawful."

With reference to the charge of discrimination, the Supreme Court used the following language:

"It is further contended that what was done was in abuse of the powers and discretion of the Board of Education and was a gross discrimination, and this contention seems to rest upon the fact that the teachers dismissed were either married women or non-resident women, or both, and much is made of the expressed feelings of the president of the board with respect to this situation.

It is true that he expressed himself forcibly. It is true that he wrote letters to the teachers in which he expressed his views. It is also true that he made a survey and reported the result of his survey to the board. But it is also true that the board did not authorize such survey and took no action on such report with regard to non-resident and married women teachers, and that it did not authorize the president to communicate with the teachers nor to do anything in that regard. The board may or may not have been influenced by his views. Upon that we will not speculate. The question is does this action of the president affect the legality of the

transfers? We think not. We are satisfied from this record that the purpose of the board was to effect economy and to terminate the services of a number of teachers no longer necessary because of the diminution of pupils, and we cannot say, even though they dismissed married or non-resident women teachers, giving preference in continued employment to residents of the school district and to those who would normally be dependent upon themselves for livelihood, that such action was an abuse of discretion or evidence of bad faith. The board appears to us to have acted within the authority conferred upon it by law, and its action involved the exercise of discretion, and in the absence of clear abuse, its action ought not to be disturbed; so we conclude that the transfer of the twenty-six teachers to schools Nos. 4 and 7 was lawful and that the board was justified in dismissing the teachers as it did, subject to the reservation imposed by the State Board."

Counsel for the teachers has quoted the case of *Nomnenson vs. Hoboken Board of Education* as authority that a teacher cannot be dismissed because she is married. The Board of Education does not take issue with the teachers on this matter. In the *Nomnenson* case the teacher was dismissed just because she was married and there was no question of economy or diminution of pupils. In that case when the Board of Education discovered that she was a married teacher there were charges preferred against her and she was dismissed merely on the ground of marriage. The case at Bar is entirely different. The reason the teachers were dismissed was to effect economy and to save money and because their services were no longer required in view of the great diminution of pupils in the elementary schools of Hoboken, and the Board, when confronted with that situation and when it decided to drop a certain number of teachers, selected the teachers who are

in these proceedings. The motivating element in the case at Bar was the act of economy and not merely because teachers were married.

Counsel for the teachers in his brief gives a hypothetical case dealing with a situation where teachers of a certain religious belief are transferred to one school and then they are all dismissed and maintains that such a situation would be illegal. The supposed case set up by counsel is not analogous to the situation of the case at bar. In the case at bar, where married teachers and non-resident teachers were let go, it is difficult to question the discretion of the board of education and say that such judgment on the part of the board in letting go non-resident and married teachers was an abuse of such discretion. It may be that the school board, because of the millions of people out of employment during the depression, thought that married teachers, as long as they were no longer needed, should go first rather than unmarried teachers and it may be that because of the terrible economic condition existing throughout the country and particularly in the community of Hoboken that resident teachers were of a greater economic value to the city than non-resident teachers; that resident teachers occupied apartments and dwellings in our city and at least make some contribution toward the economic recovery of the city, whereas non-resident teachers do not in the same degree. It is quite apparent that it is not a proper analogy as few can deny that the discretion used by the board of education was not a proper discretion.

“If it appears that the action of the city authorities was taken in an honest belief that to award the contracts they did was for the best interests of the public, it will not be disturbed even though the court, on a review of the same facts, *may think that another*

conclusion would have been justified. The law places the obligation upon the municipal authorities, and not upon the court, and where there are facts which show their action to be consistent with an honest judgment the court should not interfere." *Ryan v. Paterson*, 66 N. J. Law 533.

"In the absence of fraud or palpable abuse of discretion on the part of the municipal authorities in the exercise of the power granted by the legislature, the only question for judicial cognizance is whether there has been any violation of legal principles or neglect of prescribed formalities in entering into the engagement which is the subject of the controversy." *Oakley vs. Atlantic City*, cited in *Ryan vs. Paterson* above. Cited with approval in *Van Ripen v. Jersey City*, 58 N. J. Law 262.

"There is nothing in the case as presented to suggest fraud on the part of the Board in their action, or an abuse of the discretion reposed in them which would justify a court in declaring the contract invalid." *Ferguson v. Passaic*, 60 N. J. Law 404. As was said by Vice-Chancellor Van Fleet, in *McKinley v. Freeholders*, 2 Stewart Equity 164, "The courts have no right to interfere with the action of any of the agencies of government entrusted with power to be exercised according to their discretion, so long as they act within the limits of their power.

"But where an inferior jurisdiction, vested with discretionary power to do or omit any particular act, has not been guilty of clear and manifest abuse, in the exercise of that discretion, a mandamus ought not to be granted, for this court cannot control, and ought not to coerce that discretion." *State v. Freeholders of Essex*, 23 N. J. Law 218.

POINT V.

The acts of the President of the Board of Education were his individual acts and not binding on the Board of Education.

The teachers contend that the Board of Education of Hoboken has acted in bad faith and that months before its final action dismissing the teachers it started on a campaign to eliminate all married or non-resident teachers or both from the schools of Hoboken and in support of their contention of such a conspiracy or deliberate and premeditated attempt on the part of the Board of Education they point to a series of letters of Mr. James P. Lavery, President of the Board of Education, which had been sent by him on different occasions to the teachers affected thereby.

Under the School Law, the Board of Education is created a body corporate, having supervision, control and management of the public schools. Upon the organization of the Board, it elected one of its members as President and another as Vice-President. Being a body corporate it could only act as a legal entity. While the letter of the President of the Board was reported by him to the Board, and incorporated in their minutes, the Board of Education failed to act thereon, and did not, when duly convened as a body, ratify, confirm or approve his action. The record does not disclose or show that the Board, when convened as a body, ever delegated the power to its President to write such a letter and the result is that his action in writing such letter was the act of an individual and was of no further binding effect upon the Board of Education than a letter of similar purport written by another citizen of the City. For the Board of Education to act in a

manner that would be binding, it must do so as a body, at its regular meeting held in the place designated for such meetings, or at a special meeting properly called. *New Jersey Tel. Co. v. Board of Fire Commissioners*, 34 N. J. Eq. 117; affirmed in 34 N. J. Eq. 580.

On pages 183-184, State of Case, Mr. Lewis, Secretary of the Board of Education, testified that he was the only person who kept the minutes for the Board of Education, and that he was familiar with all the resolutions passed by the Board of Education, and that, at no time was there ever any resolutions or official act of the Board of Education that authorized Mr. Laverty, President of the Board, or anybody for it, to write any letters. On page 186, State of Case, in answer to the question whether the Board of Education, through the Secretary or anybody else, ratified the sending of these letters, the answer of Mr. Lewis was "no." He further testified that the Board took absolutely no action whatsoever when the letters of Mr. Laverty were incorporated in the minutes as his own comments. He further testified that he, as secretary, although charged with the duty of sending out all communications, had nothing to do with the letters that were sent out by Mr. Laverty. He did not write them either as Secretary of the Board or as an individual. He did not mail them nor have anything whatsoever to do with it. The letters did not come from the office of the Board of Education but were the individual acts of Mr. Laverty. The writing and signing of such letters was not an act of an ordinary nature which by necessity was incident to the office of such President.

The act of a president or other officer, unless it is shown to pertain to his official duty or to be in the scope of his employment, cannot be regarded as the act of the corporation and is not

binding upon it. *Titus and Scudder v. Cairo and Fulton R. R. Company*, 37 N. J. L. 102; *Holcombe v. Trenton White City Company*, 80 Equity 122. In *Schumm v. Seymour*, 24 Equity 143 the Court said:

“The affairs of a corporate body can be transacted only at a corporate meeting. Its legislative and discretionary powers can be exercised only by the coming together of the members who compose it; and its purpose or will can be expressed only by a vote embodied in some distinct and definite form. Their only existence is as a Board, and such act must be by ordinance or resolution or something equivalent thereto.”

Whittingham v. Hopkins, 70 L. 322;
West Jersey Traction Company v. Camden Horse R. R., 53 Equity 163.

“The Common Council of Jersey City consists of a board composed of ten aldermen. Their only existence is as a board and such act must be by ordinance, or resolution or something equivalent thereto.” *Dey v. Mayor and Council of Jersey City*, 19 Equity 412.

“Particular officers or agents of a corporation have such authority only as is expressly conferred upon them by the charter, by-laws or resolution of the board of directors or of the stockholders and such as is implied because necessary or proper to enable them to perform the duties of their office.” *Homcombs Executors v. Managers*, 9 Equity 457; *Beach v. Palisade Realty Co.*, 86 L. 239.

It is apparent that in the case at Bar there was no power or authority conferred by the by-laws or by any resolution of the Board of Directors upon Mr. Laverty, nor was it implied because it was necessary or proper to employ him to perform his duties as President. There is nothing in the record to show a ratification impliedly or expressly in any way at all. The mere fact that his

remarks appeared in the minutes is of no consequence, because no action was taken by the Board as a result of his comments. His comments in the minutes of the meeting without further action of the Board are of no greater weight or consequence than that of any citizen who appeared before such Board and made any remarks whatsoever. His letters were his individual acts and were not binding upon the Board. It was a mere coincidence that his last letter should be dated some day in the latter part of June, 1932, and the action of the Board of Education in closing the schools should be in the latter part of June, 1932. The reason for the Board's action on the 29th of June was because of the preceding events with the bankers, noteholders and bondholders of the City of Hoboken, refusing to extend the time for Hoboken to pay unless the City of Hoboken made a drastic reduction in its school costs. The record shows that the notes and bonds were coming due on June 30th, 1932, and it was absolutely necessary for the Board of Education to take whatever action it deemed proper on or before those notes and bonds became due in order to successfully obtain a renewal or an extension of time from the bankers, noteholders and bondholders. The action of the Board in point of time had nothing to do with the action of Mr. Laverty with his letters.

The language of the State Board of Education and of the Supreme Court with regard to the action of the President of the Board is very illuminating. The following is the language of the Supreme Court in this regard:

“It is further contended that what was done was in abuse of the powers and discretion of the board of education and was a gross discrimination, and this contention seems to rest upon the fact that the teachers dismissed were

either married women or non-resident women, or both, and much is made of the expressed feelings of the president of the board with respect to this situation.

It is true that he expressed himself forcibly. It is true that he wrote letters to the teachers in which he expressed his views. It is also true that he made a survey and reported the result of his survey to the board. But it is also true that the board did not authorize the president to communicate with the teachers nor to do anything in that regard. The board may or may not have been influenced by his views. Upon that we will not speculate. The question is does this action of the president affect the legality of the transfers. We think not. We are satisfied from this record that the purpose of the board was to effect economy and to terminate the services of a number of teachers no longer necessary because of the diminution of pupils, and we cannot say, even though they dismissed married or non-resident women teachers, giving preference in continued employment to residents of the school district and to those who would normally be dependent upon themselves for livelihood, that such action was an abuse of discretion or evidence of bad faith."

The teachers criticized the Board of Education for not having put on the stand the President of the Board of Education or the Superintendent of Schools. The burden of proving bad faith fell on the teachers. Under the law, bad faith is never presumed, but must be proven. Mr. Laverty, President of the Board of Education, was in court every day under subpoena on the part of the teachers and should have been put on the stand by them. It was part of their case to prove bad faith and not the duty of prosecutor-defendant to prove lack of bad faith. The teachers cannot now criticize the prosecutor-defendant for having failed to call the President of the Board of Education, especially when he was available and pres-

ent under subpoena of the teachers. When the teachers closed their case there was no proof whatsoever of bad faith, and, as stated above, it is never presumed. Consequently, the prosecutor-defendant had nothing to meet and was under no obligation to place the President of the Board on the stand.

POINT VI.

The Supreme Court erred in affirming the decision of the State Board of Education wherein it ordered and directed that all the teachers should be paid their salaries for July and August, 1932, even though their dismissals on June 29, 1932, as of June 30, 1932, were legal.

The Supreme Court decided that the Board of Education of Hoboken was justified in dismissing the thirty-four school teachers. The Board of Education of Hoboken took this action on June 29, 1932, and the dismissal of the teachers was to take effect on June 30, 1932. The Supreme Court while holding that the dismissals were valid nevertheless ordered the salaries to be paid of July and August, 1932.

Bearing in mind that the action of the Board of Education was sustained on the ground that it had effected an economy in Hoboken and because of a natural diminution of pupils, it is difficult to understand the decision of the Supreme Court in ordering salaries to be paid for two months subsequent to their dismissal and for which months no services were rendered. Section 106C of the General School Law C. S. 4764 was passed in 1909. Among the school teachers involved in this suit there were some appointed before 1909 but a great many of them were appointed subse-

quent to 1909 at various times. Resolutions appointing them are made a part of the State of the Case (229-244). The language of Section 106C of the General School Law is as follows:

“Nothing herein contained shall be held to limit the right of any school board to reduce the number of principals and teachers employed in any school district when such reduction shall be due to a natural diminution of the number of pupils in such school district.”

As to the teachers who were appointed subsequent to the passage of the above act, the Board contends that while the language of the above act was not actually incorporated in their contracts nevertheless their contracts of employment as a teacher were subject to what was the existing law at the time and whatever tenure rights, contractual rights or salary rights each teacher had were always subject to the exercise of the Board of Education in its rights under Section 106C. Supposing Section 106C had actually been written into the contracts of the teachers who were appointed subsequent to 1909? Can there be any serious question that, if the Board exercised its right to dismiss a teacher because of a diminution of pupils, such teacher would have any further rights as against the Board of Education with regard to tenure or salary if their salaries were paid up to the time of their dismissals. The mere fact that such section of the law was not actually embodied in the contracts of the teachers does not change the situation any, as any contract made by a board of education with a school teacher subsequent to 1909 was subject to such existing law without having it written expressly in the contract. The Board of Education having exercised its right under Section 106C, all tenure rights, contractual rights or salary rights for the

future were immediately terminated and the same argument applied to those teachers appointed previous to 1909 because each year their contracts of employment were renewed and if they were in the service of the schools of the City of Hoboken previous to 1909 and subsequent thereto, upon the passage of the act above referred to in 1909, their contracts too were effected the same as the contracts of teachers who were appointed subsequent to 1909. In the case *sub judice* the action of the Board took place a day before the school year closed but suppose a situation where the Board of Education took the action in January of that same year claiming that there had been a diminution of pupils and that the teachers were no longer necessary? If the reasoning of the Supreme Court is correct that these teachers were entitled to salaries for July and August or in other words, up to September 1st, then these same teachers, if they had been dismissed in January of that year instead of in June, would be entitled to salaries for all the months subsequent to January of that year up to September 1st of that year. Such a conclusion does not seem logical because then the very purpose of the act would be defeated. By the passage of Section 106C, the Legislature evidently intended that a school board, confronted with a natural diminution of pupils which condition did not require services of certain teachers, could immediately take action to eliminate such an expense where these teachers were no longer needed and such action would immediately terminate tenure, contract or future salary rights of such teachers, otherwise the act would lose all its force and the Board of Education would have to tolerate such a needless expense until the end of not only the school year but up to September 1st.

The Supreme Court states in its decision that these teachers were entitled to be paid for July

and August and up to September 1st. There is nothing in the record to show why they are entitled to be paid until September 1st. The school year, under the law, begins on the 1st day of July and ends on the 30th day of June, Section 238 C. S., page 4804. In the case at bar the school year had ended on June 30th and the teachers had been paid up to June 30th. Certainly they were not entitled to be paid for two months which were part of the new school year and for which appropriations had not been made. Appropriations for the months of July and August for the school year 1932-33 were not included in the budget or in the appropriations of the school year 1931-32 which ended on June 30th, 1932. Counsel for the teachers justifies the payment of salaries to the teachers for July and August on their rights under their contracts but again the board reiterates that, assuming they had rights for salary in the future, when the board of education exercised its rights, because of a diminution of pupils, to dismiss certain teachers and principals, whatever rights, contractual or tenure they might have, were terminated by the law itself. There is no justification for the argument that they are to be paid until September. The teachers are hired for the school year and on June 30th, being the end of the school year, their services had ended. It is true that in the past in better financial days the board of education of Hoboken paid for July and August before the expiration of those months but such payment of July and August was part of the next school year because the school year started on July 1st. They were not payments of the old school year but were payments for the months of the new school year. If the board by its action could terminate a teacher's tenure rights it also has the power to terminate her right to salary which she has not earned. Of course,

this does not mean if there is any salary due her up to the time of the action of the board that she could not recover same but just as her tenure rights are terminated so are her rights to any future salary for which she has not worked or rendered service. In the instant case to hold otherwise would mean that the board, desiring to practice economy, really could not do so. We have thirty-four teachers who earn at an average of \$205.00 per month; this would mean for the months of July and August \$410.00 for each teacher multiplied by 34 or approximately \$14,000.00. The teachers having been paid for all their services up to and including June 30th, shall the board of education be compelled to pay \$14,000 more for July and August, months for which services were not rendered, when the act under which they terminated the services of the teachers permitted them to do so?

POINT VII.

If the Court should decide that the Board of Education of the District of Hoboken was in error in retaining non-tenure teachers and dismissing tenure teachers, the prosecutor-defendant contends that the Board of Education of the District of Hoboken should be ordered to replace the non-tenure teachers that were retained with a like number of tenure teachers who were dismissed.

The counsel for the school teachers contends that there were eight non-tenure teachers retained when the Board dismissed the teachers in June, 1932. Counsel is incorrect in this contention. There were only seven as testified to by Mr. John F. Lewis, Secretary of the Board of Education of

Hoboken as appears on page 113 of the State of the Case. Mr. Lewis gave the following names of the teachers who were non-tenure:

Mary Purcell	appointed September 1929	School No. 3
Madeline Repetto	appointed September 1929	School No. 6
Levina Bailey	appointed September 1929	School No. 9
Albina Marotta	appointed September 1930	School No. 8
Grace Walsh	appointed September 1930	School No. 5
Theresa DePalma	appointed September 1930	School No. 8
Helen Larsen	appointed September 1930	School No. 8

This is borne out by a list submitted by Mr. Lewis as Secretary and which is Exhibit P-9 on page 227 of the State of the Case. Counsel for the school teachers contends that in view of the fact that the local Board had no right to retain non-tenure teachers and dismiss tenure teachers that the entire action of the Board with regard to the thirty-four school teachers was unlawful and that the entire action of the Board should be set aside. In the case of the *Board of Education of the Town of Kearny, New Jersey vs. Vincent P. Horan, et als.*, 11 N. J. Misc. Reports, 751, the Supreme Court, while holding that the Board of Education of Kearny had no right to retain non-tenure teachers and dismiss tenure teachers, nevertheless, ordered that the Board of Education replace as many non-tenure teachers as there were at the time of the action of the Board with a similar number of tenure teachers but did not set aside the entire action of the said Board of Education as is requested by counsel for the school teachers in the case *sub judice*. The Board of Education contends, that if the Court should determine that the non-tenure teachers in Hoboken should be replaced by tenure teachers in the same number, the entire action of the Board with regard to the other twenty-seven teachers should not be set aside and the procedure of our Supreme Court in the case of *Kearny vs. Horan, et als.*, cited above, be followed. To do otherwise would mean that thirty-four school teachers whose services are no

longer required would be reinstated, there would be no positions for them to fill and there would be no places to assign them to and the local Board of Education would be obliged to immediately dismiss at least twenty-seven of them. If they are reinstated they all would be entitled to their pay from July 1, 1932, up to the time that they were ordered reinstated, and to show the magnitude of the obligation that would be imposed on the City of Hoboken, counsel has figured their pay from July 1, 1932, up to May 1, 1934, the month that this brief is submitted, as being \$121,770 with interest and in all probability will be much larger when this case is determined. In view of the fact that their services are no longer required and that as far as twenty-seven are concerned there would be no positions for them to fill and no pupils for them to teach and in view of the further fact that in the last analysis it would be for the local Board to determine which tenure teachers were to replace the non-tenure teachers and which ones were to be let go, it would be a very burdensome obligation on the tax-payers of the City of Hoboken, particularly in these times.

The question was raised during the argument that, if there was an order made to replace non-tenure teachers by tenure teachers, what tenure teachers would be selected. As counsel has pointed out, in any event, it is the duty of the local Board to pick out and select those tenure teachers they desire to replace the non-tenure teachers. This being so how can any of the teachers maintain that they have been prejudiced if the Court merely orders the local Board of Education to replace the non-tenure teachers with a similar number of tenure teachers, when it is up to the Board of Education to select the persons for those places? The teachers' rights would not be any stronger if the entire thirty-four teachers were reinstated and then the

local Board was obliged to pick seven out of those thirty-four to replace the non-tenure teachers. The result is the same even if the Court merely orders that the non-tenure teachers be replaced by a similar number of tenure teachers without setting aside the entire action of the Board of Education with regard to the thirty-four teachers who were dismissed. The difference would be that the City of Hoboken would save the amount of money that the teachers would be entitled to as a result of an order reinstating them. Of the thirty-four teachers the Board of Education would feel it its duty to immediately discharge at least twenty-seven of them because of the fact that they would have no positions to fill and there would be no pupils for them to teach. The reinstated teachers would not even have sufficient work for one day and yet the City of Hoboken would have to pay all their back salaries amounting to over \$120,000 just to have them report for duty and then at the next meeting of the Board of Education have them dismissed because there was no need for them.

For years it has been the ruling of the State Commissioner of Education and the State Board of Education that when a position of a tenure teacher is abolished she was eliminated from the school system even though there were non-tenure teachers in other classes. This was based on the theory that when the class, to which the tenure teacher was assigned was abolished, that her position was abolished too. There are any number of cases where the State Commissioner and the State Board of Education have so held. It was with these cases in mind and with these cases as a precedent that the Board of Education of Hoboken took the action that it did and let out the tenure teachers involved in this litigation and retained the seven non-tenure teachers. It was

not until Justice Parker's decision in the case of *Seidel v. Board of Education of Ventnor City*, 110 N. J. L. 31 (Sup. Ct., 1932), and the recent case of *Kearny vs. Horan*, that it was definitely decided by our Courts that a tenure teacher could not be dismissed while there was a non-tenure teacher still in the employ of the Board of Education. As stated above it was due to the various precedents of the State Commissioner and the State Board that the Hoboken Board took its action and if the decisions in the *Ventnor City* case and the *Kearny vs. Horan* case are to be followed then it is contended that the rights of tenure are maintained if the Court still orders the non-tenure teachers to be replaced by a similar number of tenure teachers without nullifying the entire action of the Board of Education with regard to the thirty-four teachers, particularly when the duty will fall upon the local Board to make the selections from the thirty-four teachers to replace the seven non-tenure teachers.

Counsel also desires to point out that the seven teachers who were non-tenure at the time of the action of the Board of Education in 1932 have since become tenure teachers with all the rights that go with tenure and the only ground on which they can be dismissed will be for the purposes of economy and they too may claim discrimination if an attempt is made to oust them from their positions and replace them by seven teachers who have been ordered to take their places.

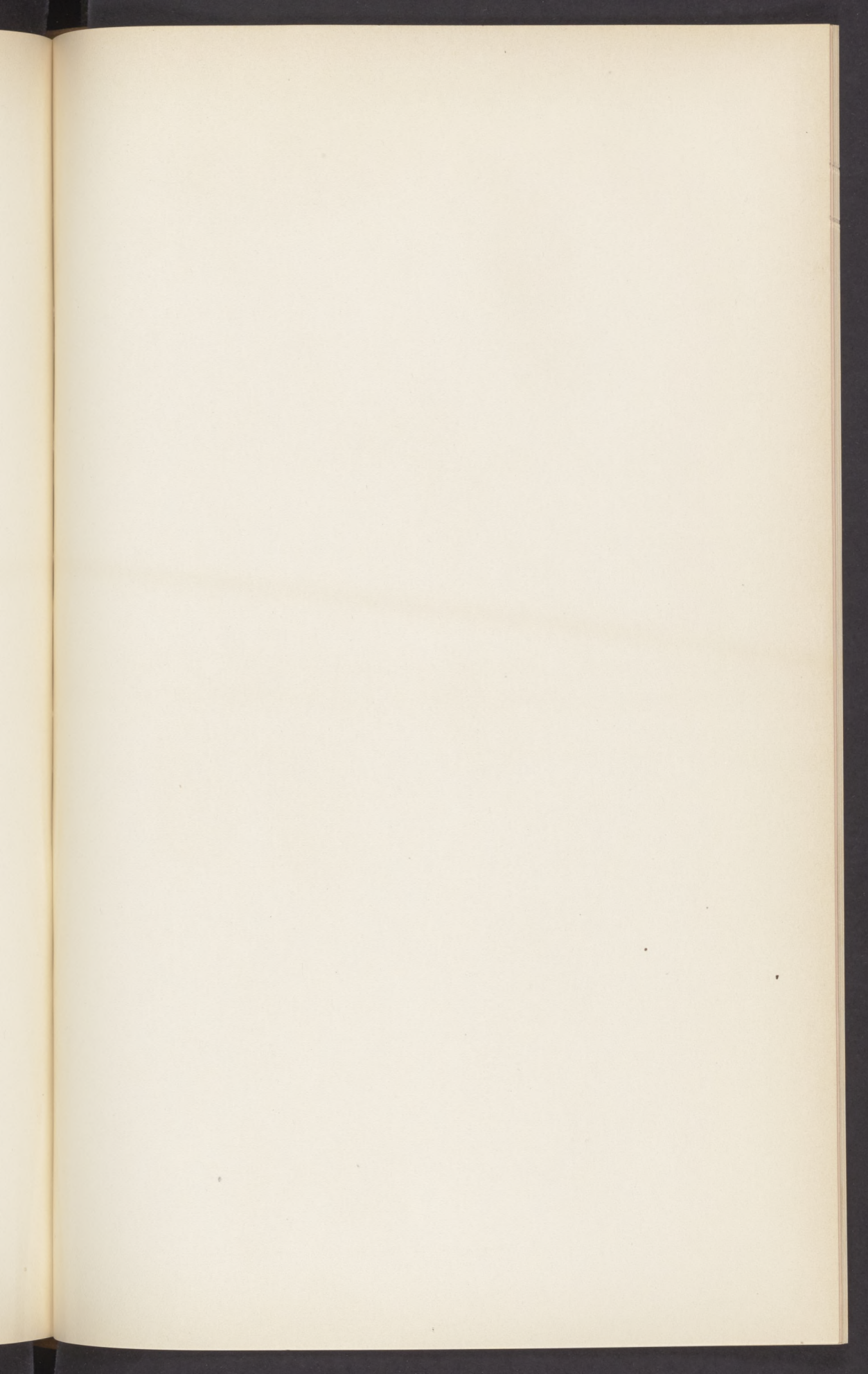
Conclusion.

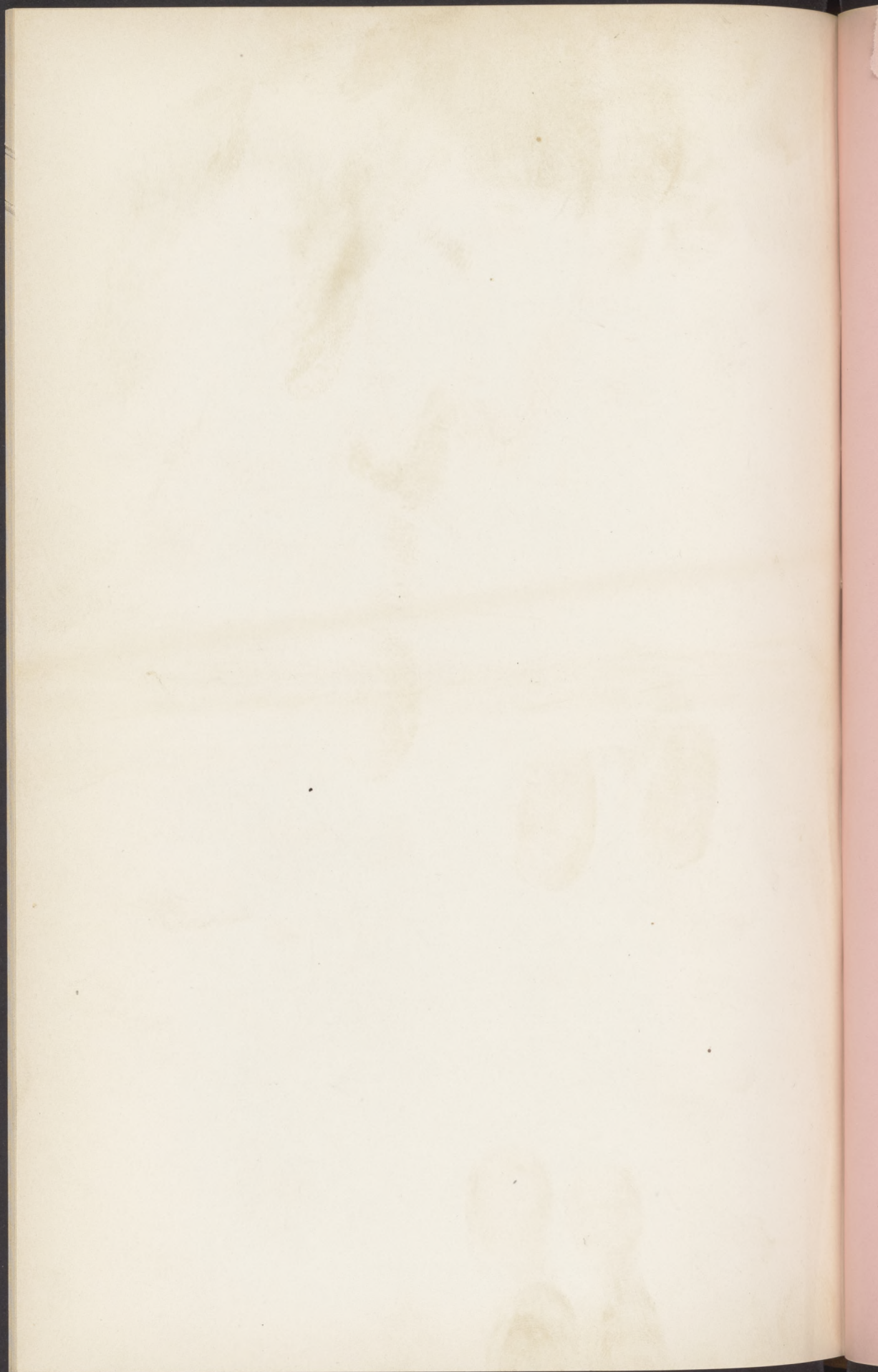
For the reasons herein urged it is respectfully submitted that the judgment of the Supreme Court in ordering the teachers to be paid for July and August was error and in ordering non-tenure

teachers to be replaced by tenure teachers was error and that the judgment of the Supreme Court be affirmed in all other respects.

Respectfully submitted,

JOSEPH GREENBERG,
Attorney for and of Counsel with
Prosecutor-Appellant, Board of
Education of the District of Ho-
boken.





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