

## *When is a town line not a town line?*

What are the services a town is required to provide?

- Registration of births, deaths, and marriages (evidence of identity & citizenship)
- Safety ordinances and enforcement (protection of life and health)
- Emergency response (protection of life and health)
- Trash disposal (protection of health)
- Welfare safety net (protection of health)
- Zoning & Planning (protection of property)
- Road building and repair
- Education

What are the administrative services needed to perform the town-required services?

- Record keeping
- Elections

What is the citizen's role in these services?

- Paying for them – taxes
- Paying for them – registration of vehicles
- Paying for them – permits and fees
- Volunteering to serve

Knowing what a town “is” by identifying what it is supposed to do is one thing. But determining WHERE that town is, is another matter. These services are usually the town's responsibility throughout the entire town. Not just some portion of it. And this is obviously where the issue of perambulating town lines becomes important.

New Hampshire's Supreme Court has said: “But as to its (a town's) territorial jurisdiction and its established boundaries, it was created and its limits defined for public purposes, as part of the machinery of government, its principal functions being to assess and collect public taxes, support common schools, build and maintain highways, relieve paupers and conduct elections. In exercising jurisdiction in any of these particulars the town acts as part of the sovereignty of the state, and its right to this jurisdiction within its established territorial limits is held ... as an attribute of sovereignty under the legislative power for public purposes...”  
*Greenville v Mason in 1876 (57 N.H. 385)*<sup>1</sup>

So, let me ask, when is a town line a town line? Or perhaps as important, when is a town line NOT a town line? There are several instances where the townspeople of one town or another have decided that they accept the division of certain of the “town services” among smaller units of the town. We know of highway districts and school districts. In some towns, certain services are provided to only a portion of the town, such as village districts for sewage treatment, water supply, street lighting, fire response, trash removal, or other services. And voting wards are common in several of our larger towns.

But let us consider school districts for the moment. Historically, the towns probably had a single school house. But as the population grew, the towns often chose to divide the town into multiple districts, each providing the service to its neighborhood. In the state statutes, we can see laws regulating school districts beginning about 1805. Prior to that time, the towns probably just assumed that they could have more than one school house in town. The existence of school district records among towns records at the State Archives is most prolific for the first half of the 1800s, although some districts seem to have lasted into the 1930s. Laws on dissolving or merging

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<sup>1</sup> quoted from Robert G. Moynihan, *A Manual On Municipal Boundaries: Perambulating Town Lines In New Hampshire* (2003), page 2.

school districts begin to appear about 1840-1850. And there is a statute passed in 1883 for how to handle disputed school district boundaries. The rise in the numbers of sub-town school districts and then the decline of these educational units fits pretty well with the rise and then decline of the population in the rural parts of the state. As families moved into a town in the late 1700s and early 1800s, more schools were needed. And then as families moved away in the 1840s and 1850s, fewer students required fewer schools. But in fact, the exodus of families in rural areas didn't stop in the 1850s. Populations continued to decline and then stabilize at low levels even as late as the 1920s.

As early as 1839<sup>2</sup>, however, we find the first statutes annexing certain specific farms or homesteads to neighboring towns "for schooling purposes". This might be seen as the beginning of another stage in the development of school districts. Similar laws continued to be passed by the state legislature through the 1800s. The most recent such statute that I have found was passed in the 1925 session of the legislature<sup>3</sup>.

These statutes seem to be thought of (at least by the people indexing the statutes) as a change to the town lines – but only for educational responsibility. The terminology used in the index is: "Part of [Hanover] annexed to Canaan for schooling purposes." This is the same terminology used to describe town line changes (but of course, without the schooling qualifier). The phrase suggests that the jurisdictional boundaries of all the other town responsibilities apparently remained unchanged.

While my research can't be considered complete on this subject, I have found there were 119 separate changes of town lines for this reason between the earliest and latest statutes. And of the 119, 13 were repealed (as early as 1885<sup>4</sup> and as late as 1985<sup>5</sup>). So does that mean that 106 laws remain in effect still?

How are we to interpret these "for schooling purposes [only]" town line changes? Are the school districts a subdivision of the town? Or is this a case of town lines being like property rights – "bundles" of responsibilities which can be separated from one another? Or similar to GIS systems with "layers" representing each of the town's obligations for the protection of Life, health, property, road maintenance, education, elections, and (of course) the collection of taxes. Usually all coincide on the same line (the "town line" as I traditionally think of it), but occasionally, the boundaries of one or more of town obligations varies from the rest. Or perhaps a different way of looking at the issues presented here would be to think of the school district and "town" as separate governmental entities. The town may contract with the school district to discharge the town's responsibility to its citizens to educate their children, but it is not required to contract with the school district collocated with the municipal corporation. This would certainly be similar to the difference between the township proprietors and the town, where the bounds of one weren't necessarily the same as the boundaries of the other. So, too, could the boundaries of the municipality and the school district be different. If this is the case, how many of our survey plans show only one town line when there may be two (or even more)?

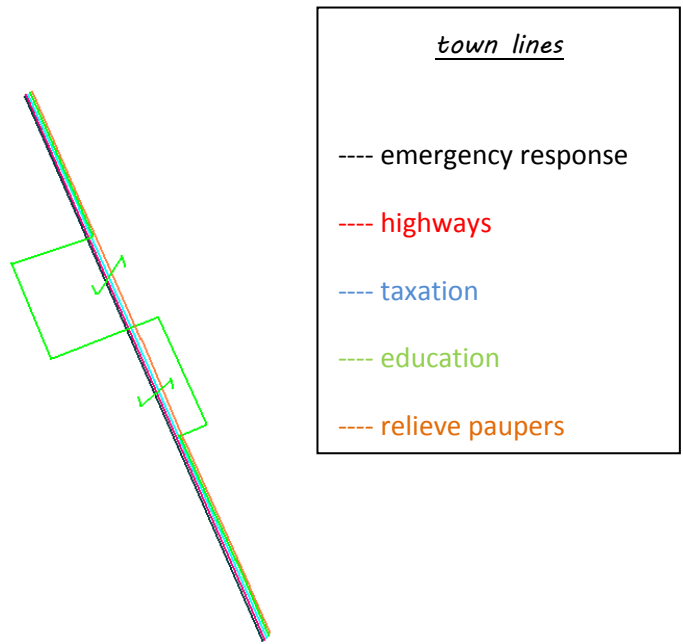
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<sup>2</sup> Part of Franconia was annexed to Bethlehem for schooling purposes.

<sup>3</sup> Dudley C. Littlefield farm in Stratham was annexed to the town of Greenland for schooling purposes.

<sup>4</sup> Laws of 1885, page 369, repeals E.W. Moses land etal in Columbia annexed to Colebrook, Laws of 1873, Chapter 106.

<sup>5</sup> Laws of 1985, Chapter 85, page 226, (HB 295) repeals Laws of 1878, Chapter 133 for 2 farms in Canterbury annexed to Concord School District #20.



The peak of the “school purposes” annexation activity was the 1880s and 1890s. And we should consider in more detail, one of these: Chapter 133 of the Laws of 1878. In this act, the homestead farms of Charles Smith and Frank Peverly in school district No. 1 in Canterbury, were annexed to school district No. 20 in Concord. In 1985, House Bill 295 was brought up to repeal the act of 1878. The 1985 act was brought at the request of the selectmen of Canterbury. They testified that the two farms totaled about 5 acres, and no children were presently living on them. The selectmen pointed to several continuing difficulties. Among these, were the fact that the bridge that once connected these farms to Concord no longer stood, so the school buses would have quite a long drive to pick up school kids (if there were any). In 1985, Canterbury paid \$1703 to Concord for the school tax for these two farms. The selectmen also pointed out that Canterbury needed to maintain two different checklists: one for the school district and one for the “town”. Because the equalized rates of the two school districts affected in 1985 were nearly identical, the land owners would see no change in their tax bills, but the task of the Canterbury tax officials would be much simpler. So the selectmen testified in the legislature to problems of complications in tax rates and collection, and complications in voting rights, as well as a long drive for school buses. No mention was made of perambulation of town lines.

Another example, in 1909, is the homesteads of Martha J. Baldwin and Henry Harrison in Bennington (NH) were annexed to the Antrim school district.<sup>6</sup> Since then, both Bennington and Antrim have joined several other towns to create the multi-town “Contoocook Valley” School district [a.k.a., “Conval”]. This later action would seem to make the issue moot, but there are always rumblings of discontent and muttering of secession. What if Antrim were to withdraw from the Conval district, and I were to be hired to survey a property that was discovered to be the Martha J. Baldwin homestead mentioned in the 1909 statute? Does my title block now read “Land in Bennington (except in Antrim for schooling purposes) of Fred and Wilma Flintstone ....”?

*Plan of Land in Madbury*  
 (except Tamworth for schooling purposes)  
 of  
*Mary and Joseph Smith*

<sup>6</sup> Laws of 1909, page 621.

Or consider the Frederick Smyth farm of Londonderry, annexed to Manchester for schooling purposes in 1891.<sup>7</sup> Would the survey plan now need to be recorded in both Rockingham County Registry of Deeds (because the property is in Londonderry) AND in Hillsborough County Registry of Deeds (because the property is part of Manchester for schooling purposes)?

And not yet resolved in my research is the issue of whether the owner(s) of the Martha J. Baldwin, Henry Harrison or Frederick Smyth places are still paying school taxes in the second town, according to the provisions in the statute in 1845<sup>8</sup>. As we saw in the case of the 1878 Canterbury-Concord annexation, the taxes continued to be paid.

With the decline in statutes annexing specific properties to neighboring towns for schooling purposes, the trend became the joining of two or more towns into multi-town school districts, which would (probably) have been defined by town lines again, rather than some other boundary.

Which of the two ways of interpreting the statutes annexing farms and homesteads of individuals to neighboring towns is correct is for someone smarter than me to decide. Are the responsibilities of the municipal corporation a bundle of obligations, each of which could have a different boundary? Is a school district a separate local corporation, which the municipal corporation pays to fulfill the town's obligations, and each corporation has its own boundaries? From the evidence that I have seen to date, the concept that there is a town line for protection of life and limb, a town line for road maintenance, a town line for emergency response, and a town line for education (etcetera) makes more sense to me. Most of the time, these various boundaries all coincide and we dutifully perambulate "the town line". Occasionally, one or more of these boundaries has been changed by statute, however, and lies in a different location. How will we show this variation in property rights on our survey plans? How will the perambulators walk and then report the lines when there are more than one on the ground? And if we think of school district boundaries as something distinct from town line boundaries, shouldn't there be some statute requiring the perambulation of school district boundaries for the same reasons we argue town line perambulations are needed?

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<sup>7</sup> Laws of 1891, page 568.

<sup>8</sup> Acts, volume 37, page 245.

**Town line adjustments for schooling purposes<sup>9</sup>**

<i>Year</i>	<i>Parent Town</i>	<i>Recipient Town</i>	<i>repeal</i>	<i>Comments</i>
1839 Ch. CCCCLXI	Franconia	Bethlehem School District #2		"Wallace School District" see 1883 or 1887
1840 Ch. DV	Landaff	Lincoln School District #2		
1841	Epsom	Pittsfield		
	Haverhill	Bath		
1842	Bath	Landaff		
	Chichester parts of School District #1, 2,3	Epsom School District #2		see 1847, 1858
	Haverhill	Bath		
	Newington	Portsmouth	repealed 1903:236	Pickering, Richard, homestead
	Somersworth	Dover		
1843	Freedom	Eaton		
	Windham	Derry		
1844	Brookfield	Wakefield		
1844: Ch.160	Haverhill School District #10	Benton School District #5		Aaron P. Glazier
1844: ch.161	Somersworth School District #1	Dover School District #9		Eli Cook
1844 Ch.162	Sanbornton School District #6	Franklin School District #8		Henry Shaw farm
1844 Ch.163	Chester School District #15	Candia School District #3		Edward D. Eaton farm
1844 Ch.164	Mason School District #6	New Ipswich School District #3		Samuel Webster farm
	Kingston	Newton		
	Lebanon	Enfield		see 1858
	Mont Vernon	Amherst		
1846 Ch358	Marlborough School District #5	Jaffrey School District #12		John Haskell homestead
1847 Ch.510	Wentworth-Rumney Union School District	Rumney School District #4		Kendall Osgood, Adams B. Kimball, Charles Newhall, Peabody A. Morse, Joseph Nudd homesteads
1847 Ch.511	Chichester [town]	Chichester-Epsom Union School District (as created Nov. 1842)		#8, Range #5, Division #1 in Chichester see 1858
	Gilmanton	Sanbornton		
1848	Fitzwilliam	Troy		
	Salisbury	Boscawen		
1852	Nottingham	Lee		
	Warner	Hopkinton		see 1874
1853	Colebrook [town]	Stewartstown School District #4	repealed 1915:311	Charles S. and Henry E. Wiggin property

<sup>9</sup> This is not expected to be a complete list. Additional work needs to be done to identify additional lines, especially in the 1679-1883 period.

1854	Pittsfield	Chichester		
1858	Canaan	Enfield		Seth P. Follansbee homestead see 1872
	Cornish	Plainfield		
1858	Enfield Union School District	Lebanon		Isaac Eastman
	Epsom	Chichester		
1859	Derry	Salem		
1859	Enfield School District #17	Springfield School District #5		
	Loudon	Concord		
	Peterborough	Hancock		
	Rollingsford	Dover		see 1864, 1872
1860	Chichester	Epsom		see 1842, 1847, 1858
1860:2279	Enfield School District #16	Plainfield School District #13		Thomas E. Poland
1861	Conway	Bartlett		
1861:2461 Ch.2516	Milan School District #3	Berlin School District #3		John Y. Dustin
1862:2630 Ch.2640	Thornton School District #1	Campton School District #3		John W. Pettee
1863	Conway	Bartlett	repealed 1913:972	
1864	Deering	Henniker		
	Dover	Rollingsford		
1867	Loudon	Chichester		
1869	Lee	Nottingham		
	Newbury	Bradford		
1872	Canterbury	Loudon	repealed 1899:446	
	Dover	Rollingsford		
	Dublin	Harrisville		
	Enfield	Canaan		see 1874
	Harrisville	Marlborough		
	Stewartstown	Colebrook		see 1853
1873	Columbia	Colebrook		
1874	Bath	Monroe		
	Canaan	Enfield		
	Deerfield	Nottingham		
	Greenland	Stratham		
	Pittsburg	Clarksville		
	Hopkinton	Warner		
	Rollingsford	Dover		
1875	Dixville	Colebrook		
1877	Brookfield	Wakefield		
1878	Bristol	Bridgewater		
	Canterbury Sch Distr #1	Concord Sch Distr #20	repealed 1985: 226	Peverly, Frank; Smith, Charles, farm (1878:268, Chapter 133)
	Dummer	Milan		
	Northwood Sch. Distr. #6	Deerfield Sch. Distr. North		
1881	Durham	Newmarket		
	Hanover	Canaan		

	New Ipswich	Greenville		
	Thornton	Campton		
1883	Bethlehem	Franconia		
	Columbia	Colebrook		
	Gilmanton	Loudon		
	Landaff	Lisbon		
	Loudon	Chichester		
	Nottingham	Barrington		
	Rollingsford	Dover		
	Webster	Hopkinton		
1887	Bethlehem	Franconia		
1887:665 Ch.295	Landaff Town School District	Lisbon School District #1		Chase, Arthur D., farm
1887:667 Ch.298	Lee <i>[town]</i>	Durham <i>[town]</i>		Bartlett, Samuel H., farm; Chesley, George E. and Thomas B., farms
1887:673 Ch.302	Piermont <i>[town]</i>	Haverhill <i>[town]</i>	repealed 1921:340	Stevens, George H., farm
1889:157	Bath	Woodsville		Kibby, David B., farm
1889:159	Rollinsford	Dover		Thompson, Edward F., farm
1889:192	Newmarket	South Newmarket		Burley, Harrison G. and Freeman Sanborn, farms
1889:247	Lee	Durham		Jenkins, William A., farm
1889:256	Newbury	Sutton	reannexed to Newbury 1901:740	Gillingham, Charles H., farm; Maxon, Sarah, farm; Messer, Hollis, farm; Messer, Oliver C.; Twist, Lemuel C., farm
1889:256	Newbury	Sutton		Dresser, Luther, farm
1889:258	Sandown	Hampstead	repealed 1919:340	Pillsbury, Alden E., farm
1889:268	New Durham	Farmington		Brooks, Charles and Joseph P., homesteads
1891: 512	Deering	Hillsborough Bridge special school district	repealed 1943:417	Appleton, Ira S., homestead
1891:510	Londonderry	Manchester		Berry, Joseph, heirs; Brown, Margaret; Doyle, Patrick; Flanders, Mrs. R.; Keefe, Dennis; Kimball, C.H.(Mrs.); Kimball, George; McCabe, Thomas; McCanley, James; Madden, John; Mulhearn, John; Perron, Louis; Roberts, D.S., Mrs.; Walker, Thomas, Jr., homesteads
1891:568	Londonderry	Manchester		Frederick Smyth farm
1893:188 Ch.213	Amherst <i>[town]</i>	Milford <i>[town]</i>		Chase, Frank W., farm
1893:190 Ch.217	Northfield Town School District	Tilton Union School District		McDuff, Cynthia; Thomas, Richard and Mary H., homesteads
1893:212 Ch.234	Woodsville High School District	Bath <i>[town]</i>		Chamberlain, John G. and Harry, farm

1893:214 Ch.238	Wolfeboro [town]	Ossipee [town]		Goldsmith, John L., farm
1893:244 Ch.256	Bedford	Manchester	returned to Bedford 1953:543	Barnard, Fred M.; Butterfield, Daniel; Carswell, Ernest G.; Fullerton, James H., homesteads
1893:244 Ch.257	Lee [town]	Newmarket [town]		Bert P. Thompson homestead
1893:313 Ch.308	Ossipee Town School District	Wakefield Town School District		Matthews, Joseph S. farm
1897:206	Haverhill	Bath		Riley, Moses F., homestead
1901:680	Durham	Newmarket		Pendergast, Charles F., homestead
1901:776	Shoestring district (Concord)	Canterbury		Sargent, Harry A., farm
1903:269	Middleton	Wakefield		Hiram S. Stevens farm
1903:347	Wilmot	New London	repealed 1909:643	Emery, Mason W., property; Everett, Sarah E., property; Jones, Walter; Shepard, George and Charles E., property
1907:192	Amherst	Milford	returned to Milford 1961:609	Chute, Linam, homestead
1907:254	Farmington	New Durham		Brooks, Mary R., heirs; New England Sheep Co., heirs, homestead
1907:279	Bradford	Newbury	reannexed to Newbury, 1967:1019	homesteads; Gregory, Edward G., homestead; Messer, Jennie M., homestead
1909:619	Penacook	Concord Union School District		Annis, Horace B., homestead
1909:621	Bennington	Antrim School District		Baldwin, Martha J., homestead; Harrison, Henry, homestead
1909:676	Lisbon	Franconia		Taylor, George W., farm
1911:394	Boscawen	Canterbury		Smith land
1911:400	Dover	Somersworth		Guilmette, Louis, homestead
1921:334	Northfield	Tilton		
1921:340	Rollinsford	Dover		Hayes, Charles C., farm
1921:341	Dover	Rollinsford		Wilson, Harry, farm
1925:327	Stratham	Greenland		Littlefield, Dudley C., farm

1917: 939      An act to reannex the Frank Dearborn property in Lee back to Lee. It was not stated in what year, nor what town, the Dearborn property was annexed to. Acts annexing properties in Lee to other towns included: 1869 to Nottingham; 1887 to Durham; 1889 to Durham; and 1893 to Newmarket.