

CARPENTER, C. J. In his suit against the district the plaintiff failed because school districts are not liable for wages paid or for board furnished to teachers. *Wheeler v. Alton School District*, 66 N. H. 540. This action is against the town which, though coterminous with the school district, is a distinct and separate organization. *Sargent v. District*, 63 N. H. 528. The plaintiff does not claim that his action can be maintained unless the defendants — the town of Alton — are made liable by virtue of their vote in 1895 to raise money to pay the plaintiff's demand. A town cannot by vote make itself liable to an action on a demand which it is neither equitably nor legally bound to satisfy. *Bowles v. Landaff*, 59 N. H. 164; *Cole v. Bedford*, 97 Mass. 326, note; *Usher v. Colchester*, 33 Conn. 567. All money raised by a town for school purposes must be paid over to the school board, who are alone responsible, under a heavy penalty, for its lawful expenditure. P. S., c. 88, ss. 1, 2, 3, 4, 7. Towns have no power to require that money raised by them for schools shall be applied to any special purpose. The appropriation of the school money rests exclusively with the school board. P. S., c. 88, ss. 2, 7, 12; c. 90, s. 12; c. 92, ss. 1-14. The utmost effect that can be given to the vote of the defendants in 1895 is to authorize the selectmen to assess, collect, and pay over to the school board, in addition to the amount required by law, a sum equal to the amount paid by the plaintiff to the teacher.

Judgment for the defendants.

PARSONS, J., did not sit: the others concurred.

Belknap, }
June, 1896. }

HART v. HART.

To constitute extreme cruelty as a cause of divorce there must be, as matter of law, direct bodily injury, either actual or threatened and reasonably to be apprehended.

LIBEL FOR DIVORCE, on the ground of extreme cruelty. Facts found by the court. The libel alleged personal violence; but, so far as this charge was sustained by the libelant's evidence, it appeared to have been condoned. The libel alleged, and the libelant's evidence tended to prove, that the libelee had so behaved as to wholly destroy the libelant's marital peace and happiness; that on divers occasions she had addressed him

in language both offensive and vexatious, and the use of such language toward him had been her customary and habitual practice; that at different times she had accused him of marital infidelity and of having contracted and imparted to her a certain venereal disease, which accusations she knew were false and without foundation; that she had told him she hated him, that she wished he was dead, that she would poison him, that she would take his life. There was no allegation or evidence that the conduct complained of injured the libelant's health or endangered his reason, or that he had any fear of injury from the libelee.

At the close of the libelant's evidence, the court, on motion of the libelee, dismissed the libel on the ground that the facts proved did not, as matter of law, constitute extreme cruelty, and the libelant excepted.

Jewell, Stone, Owen & Martin, for the plaintiff.

Jewett & Plummer, for the defendant.

BLODGETT, J. To constitute extreme cruelty as a cause of divorce, there must be, as matter of law, direct bodily injury, either actual or threatened and reasonably to be apprehended. *Robinson v. Robinson*, 66 N. H. 600, 607, 608.

In the present case these essentials are wholly lacking. The only act of personal violence alleged is found to have been condoned, and there is no reasonable apprehension of its repetition, or of any other bodily harm. In a word, giving the most favorable construction for the plaintiff, such of the acts and conduct complained of as are open to consideration fall far short of establishing legal cruelty within the statutory meaning as construed in this jurisdiction. *Robinson v. Robinson, supra; Jenness v. Jenness*, 60 N. H. 211.

Exception overruled.

PARSONS, J., did not sit: the others concurred.