

commission. For the performance of these duties and the orderly progress of financial administration in Manchester as now organized the continuous operation of the finance commission is of importance. It is not probable the legislature contemplated a situation which should cast doubt upon the validity of the action of a board vested with so extensive power. By general law and the statutes of the state it is clear each member of the commission holds office until his successor is appointed and qualified unless it is otherwise provided. Stress is placed upon the fact that under the statute and the respondent's commission his term extends to January 1, 1924. Upon reading the whole section it is clear that the purpose was to establish three-year terms, one of which should expire on the first of January each year, and that the requirement that the original appointments should terminate on definite dates was intended to put this scheme into operation. No reason can be suggested for a design that the first three appointments should terminate at a definite date, while the subsequent ones appointed "for a term of three years" should under the general rule hold until their successors were appointed and qualified. The long list of statutes cited in the attorney-general's brief as to which it is claimed specific provision is made for continuance in office until a successor is chosen or qualified provides for state officers only.

So far as *Beck v. Hanscom*, 29 N. H. 213, is in conflict herewith, it is overruled.

*Information dismissed.*

SNOW, J., was absent: the others concurred.

Hillsborough, }  
April 1, 1924. }

GEORGE E. TRUDEL v. FRANK H. EMERSON & a.

Under P. S., c. 2, s. 15; *Ib.*, c. 43, s. 5, a majority of the members of the finance commission of Manchester have authority to act.

PETITION, by the plaintiff as mayor and as a taxpayer alleging that the two defendants are members of the finance commission of the city of Manchester; that Bond, the third member of the commission, is disqualified to act and that the defendants as a majority of the board claim the right to perform the duties imposed

upon it; and praying that they be enjoined from so acting. The defendants in their answer admitted the foregoing facts and moved that the petition be dismissed; and it was so ordered by the court, subject to the plaintiff's exception.

Transferred by *Branch, J.*

*Thomas J. Bois*, by brief and orally, for the plaintiff.

*Tuttle, Wyman & Starr* (*Mr. Tuttle* orally), for the defendants.

PARSONS, C. J. "Words purporting to give a joint authority to three or more public officers shall give such authority to a majority of them unless otherwise expressly declared." P. S., c. 2, s. 15. "A majority of the selectmen shall be competent to act in all cases." P. S., c. 43, s. 5. The members of the finance commission are public officers; their duties in part are those devolving upon selectmen in towns. *Attorney-General v. Bond*, ante, 269. They are clearly within the statute and the act of a majority is the act of the board, whether the other member is disqualified or not, or is, or not, notified. Cases cited by *Jeremiah Smith, J., Northern Railroad v. Railroad*, 50 N. H. 166, 198, 200. Whether the holding that county commissioners when laying out highways are not within the statute because of special provisions for filling vacancies in such boards is sound, or not, is immaterial. There is no provision for filling a vacancy in this commission in case one of the members became disqualified or otherwise unable to act, and the conclusion must be that the legislature intended that when one of the appointees for any reason could not or did not act, the remaining members should possess all the authority of the board.

*Exception overruled.*

SNOW, J., was absent: the others concurred.