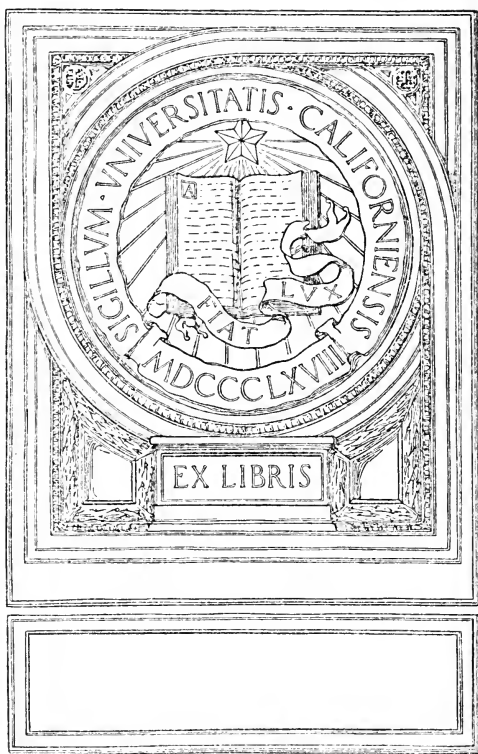


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Francis Lieber

from the Secretary of
State of the State
of New York.

• N. Y. Aug. 1850.

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from the 1st of 1825
to the 1st of 1826

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STATUTES

OF THE

STATE OF NEW-YORK

RELATING TO

COMMON SCHOOLS,

INCLUDING

TITLE II. OF CHAPTER XV. PART I. OF THE REVISED STATUTES,
AS AMENDED BY THE ACT CHAPTER 490, LAWS OF 1947.

WITH

FORMS AND REGULATIONS

RESPECTING PROCEEDINGS UNDER THOSE STATUTES.

Prepared pursuant to the directions of the Legislature,
BY THE SUPERINTENDENT OF COMMON SCHOOLS.

ALBANY:
C. VAN BENTHUYSEN, PUBLIC PRINTER.
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☐ This pamphlet will be transmitted to all officers charged with the performance of any duty under the acts relating to Common Schools, and will be received by them in their official capacity. It thus becomes a part of the papers and documents of their office, which they are required by law to hand over to their successors.

STATUTES

RELATING TO

COMMON SCHOOLS,

INCLUDING

TITLE II. CHAPTER XV. PART I. REVISED STATUTES.

[Pursuant to the directions of the 148th section of the act of December 15th 1847, there are inserted in this publication of the second title of chapter 15, all acts and parts of acts connected with the subjects of the said title, which are now in force; and where the provisions of that title have been altered by subsequent acts, such provisions have been varied in order to conform them to such alteration. The original number of each section is in all cases retained, whether it was a part of the Revised Statutes or was taken from some session law passed since 1828. In the latter case, there is a reference to a note at the foot of the page, which gives the particular chapter from which the section is taken, and its number is inclosed within brackets, in order to designate it more distinctly from the sections of the Revised Statutes which are printed with the section mark only.]

To facilitate references to them, the sections in this edition are also numbered continuously from the first to the last, without regard to the statutes from which they are taken. The index at the end, refers to these numbers.]

TITLE II.

OF COMMON SCHOOLS.

- ART. 1.—Of the powers and duties of the superintendent of common schools, and of the apportionment of school moneys.
- ART. 2.—Of the distribution of the common school fund.
- ART. 3.—Of the powers and duties of town superintendents of common schools.
- ART. 4.—Of inspection and supervision by town superintendents.
- ART. 5.—Of the formation and alteration of school districts; the powers of school district inhabitants; of the choice, duties and powers of school district officers; the assessment and collection of school district taxes; the annual reports of trustees; school district libraries.
- ART. 6.—Of certain duties of the county clerk.
- ART. 7.—Miscellaneous provisions.

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ARTICLE FIRST.

Of the Powers and Duties of the Superintendent of Common Schools, and of the Apportionment of School Moneys.

General
duties of
superinten-
dent.

No. 1—§ 1. There shall continue to be a superintendent of common schools, whose duty, amongst other things, it shall be, to prepare and submit an annual report to the legislature containing,

1. A statement of the condition of the common schools of the state:

2. Estimates and accounts of expenditures of the school moneys:

3. Plans for the improvement and management of the common school fund, and for the better organization of the common schools ; and,

4. All such matters relating to his office, and to the common schools, as he shall deem expedient to communicate.

General
deputy
superinten-
dent.

No. 2—[§ 41] The superintendent of common schools may designate and appoint any one of the clerks employed by him to be his general deputy, who may perform all the duties of the superintendent in case of his absence or a vacancy in his office.¹

Visitors of
common
schools.

No. 3—[§ 8.] The superintendent of common schools may appoint such and so many persons as he shall from time to time deem necessary, to visit and examine into the condition of the common schools in the county where such persons may reside, and report to the superintendent on all such matters relating to the condition of such schools, and the means of improving them, as he shall prescribe ; but no allowance or compensation shall be made to the said visitors for such services.²

Superintend-
ent may
grant certi-
ficates of qual-
ification.

No. 4—[§ 10.] The superintendent of common schools, on such evidence as may be satisfactory to him, may grant certificates of qualification under his hand and seal of office, which shall be evidence that the holder of such certificate is well qualified in respect to moral character, learning and ability, to teach any district school within this state ; which certificate shall be valid until duly revoked by the superintendent.³

Acts of su-
perintendent
how authen-
ticated.

No. 5.—[§ 7.] Copies of papers deposited or filed in the office of the superintendent of common schools, and all acts and decisions by him, may be authenticated under the seal of the office of secretary of state, and when so authenticated shall be evidence equally, and in like manner as the originals.⁴

(1) Laws of 1841, chap. 260, § 41. (2) Laws of 1839, chap. 330, § 8. (3) Laws of 1843, chap. 133, § 10. (4) Laws of 1839, chap. 330, § 7.

No. 6—§ 2. In every year, immediately following a year in which a census of the population of this state shall have been taken, under the authority of the state, or of the United States, the superintendent shall apportion the school moneys to be annually distributed amongst the several counties of the state, and the share of each county, amongst its respective towns and cities. Apportionment.

No. 7—§ 3. Such apportionment shall be made among the several towns and cities of the state, according to the ratio of their population respectively, as compared with the population of the whole state, according to the last preceding census. Ratio.

No. 8—§ 5. If an increase of the school moneys to be distributed, shall take place in any other year, than one immediately following a census, the superintendent shall apportion such increase amongst the several counties, cities and towns, according to the ratio of the apportionment then in force.¹ Increase.

No. 9—§ 6. When the census or returns, upon which an apportionment is to be made, shall be so far defective, in respect to any county, city or town, as to render it impracticable for the superintendent to ascertain the share of school moneys, which ought then to be apportioned to such county, city or town, he shall ascertain, by the best evidence in his power, the facts upon which the ratio of such apportionment shall depend, and shall make the apportionment accordingly. Proceeding when census defective.

No. 10—§ 7. Whenever, in consequence of the division of a town, or the erection of a new town, in any county, the apportionment then in force shall become unjust, as between two or more of the towns of such county, the superintendent shall make a new apportionment of the school moneys next to be distributed amongst such towns, ascertaining by the best evidence in his power, the facts upon which the ratio of apportionment as to such towns, shall depend. When town altered.

No. 11—§ 8. The superintendent shall certify each apportionment made by him, to the comptroller, and shall give immediate notice thereof, to the clerk of each county interested therein, and to the clerk of the city and county of New-York; stating the amount of moneys apportioned to his county, and to each town and city therein, and the time when the same will be payable to the treasurer of such county, or to the chamberlain of the city of New-York. Certificate and notice.

No. 12—§ 9. The superintendent shall prepare suitable forms and regulations for making all reports, and conducting all necessary proceedings, under this Title, and shall Regulations &c.

(1) A amendatory act of 1830, chap. 320, § 5, and by § 6 of same ch. the orig. § 4 is repealed.

cause the same, with such instructions as he shall deem necessary and proper, for the better organization and government of common schools, to be transmitted to the officers required to execute the provisions of this Title throughout the state.

Certain articles to be printed.

No. 13—§ 10. He shall cause so many copies of the first six Articles of this Title, with the forms, regulations and instructions prepared by him, thereto annexed, to be, from time to time, printed and distributed amongst the several school districts of the state, as he shall deem the public good to require.

Expenses how paid.

No. 14—§ 11. All moneys reasonably expended by him, in the execution of his duties, shall, upon due proof, be allowed to him by the comptroller, and be paid out of the treasury.

ARTICLE SECOND.

Of the distribution of the Common School Fund.

When paid.

No. 15—§ 12. The sum annually to be distributed for the encouragement of common schools, shall be paid on the first day of February, in every year, on the warrant of the comptroller, to the treasurers of the several counties, and the chamberlain of the city of New-York.

Treasurer to apply.

No. 16—§ 13. The treasurer of each county, and the chamberlain of the city of New-York, shall apply for and receive the school moneys apportioned to their respective counties, as soon as the same become payable.

To give notice.

No. 17—§ 14. Each treasurer receiving such moneys, shall give notice in writing, to the town superintendent or to some one or more of the commissioners of common schools of each town or city in his county, of the amount apportioned to such town or city, and shall hold the same subject to the order of such town superintendent or commissioners.

Moneys remaining, how disposed of.

No. 18—§ 15. In case the commissioners or town superintendent of any such city or town shall not apply for and receive such moneys, or in case there are no commissioners or town superintendent appointed in the same, before the next receipt of moneys apportioned to the county, the moneys so remaining with the treasurer shall be retained by him, and be added to the moneys next received by him, for distribution from the superintendent of common schools, and be distributed therewith, and in the same proportion.

County clerk.

No. 19—§ 16. Whenever the clerk of any county shall receive from the superintendent of common schools notice of the apportionment of moneys to be distributed in the county, he shall file the same in his office, and transmit a certified copy thereof to the county treasurer, and to the clerk of the

board of supervisors of the county; and the clerk of the board of supervisors shall lay such copy before the supervisors at their next meeting.

No. 20—§ 17. It shall be the duty of the supervisors, at such meeting, and at every annual meeting thereafter, to add to the sums of money to be raised on each of the towns of the county, for defraying the necessary expenses thereof, a sum equal to the school moneys which shall have been apportioned to such town; which moneys, so added, together with the fees of the collector, shall be levied and collected in the same manner as other moneys directed to be raised in the town.

Duty of board of supervisors.

No. 21—§ 18. The supervisors shall cause and require the collector of each town, by their warrant to him, to pay the moneys so added, when collected, retaining his fees for collection, to the superintendent of common schools in such town, for the use of common schools therein; whose receipt therefor shall be sufficient evidence of such payment.

No. 22—§ 19. If there shall not be any superintendent of common schools in such town when the moneys are collected, the collector shall pay the same, retaining his fees for collection, to the county treasurer, to be by him apportioned among the several cities and towns in the county, and distributed in the manner provided in the fifteenth section of this Title.

When moneys to be paid to treasurer.

No. 23—[§ 2.] Whenever any board of supervisors shall hereafter omit, at their annual meeting, to add to the sums of money to be raised on the towns of their county, an equal sum to that apportioned to such towns by the superintendent of common schools in any year, it shall be their duty to hold a special meeting for the purpose of adding the sum that may be deficient, whenever it can be done in time to allow such deficient sum to be collected with the other taxes of the county; and such special meeting shall be notified by the clerk of the board of supervisors on receiving notice of the deficiency from a majority of the board of supervisors of said county; and in case such deficient sum shall not be directed to be raised at a special meeting, it shall be the duty of the supervisors of such county, at their next annual meeting, to add the amount of such deficiency to the sums to be raised on each of the towns of the county; which, with the fees of collection, shall be levied and collected in the same manner as other moneys directed to be raised in the town, and shall be apportioned among the school districts therein according to law.

Future omissions how remedied.

Clerks of Supervisors to transmit certain resolutions.

No. 24—[§ 3.] It shall be the duty of the clerk of the board of supervisors in each county in this state, on the last day of December in each year, to transmit to the superintendent of common schools certified copies of all resolutions and proceedings of the board of supervisors, of which he is clerk, passed or had during the preceding year, relating to the raising of any money for school or library purposes, and to report particularly the amount of such money directed to be raised in each town of such county; and in case it shall not appear that the amount required by law to be raised for school and library purposes has been directed to be raised during the year by the board of supervisors of any county, the superintendent of common schools and the comptroller may direct that the money appropriated by the state and apportioned to such county, be withheld until the amount that may be deficient shall be raised, or that so much only of the money apportioned to such county be paid to the treasurer thereof, as shall be equal to the amount directed to be raised therein by the supervisors of such county; and in such case the balance so withheld shall be added to the principal of the common school fund.

When school money may be withheld from a county.

How applied

Of the Election and Powers of Town Superintendents.

Town superintendent of common schools when elected.

No. 25—§ 1. There shall continue to be elected in each of the towns in this State, at the same time, and in the manner now provided by law for the election of other town officers, an officer to be denominated "town superintendent of common schools," who shall possess all the powers perform all the duties, and be subject to all the restrictions, liabilities and penalties conferred and imposed by this act.¹

Term of office.

No. 26—§ 2. The several town superintendents in office when this act takes effect, elected or appointed in conformity to existing laws, shall continue to hold their respective offices, and discharge the duties thereof until the first Monday of November, one thousand eight hundred and forty-eight.

Town superintendents hereafter elected when to enter upon their duties.

No. 27—§ 3. The town superintendents of common schools hereafter to be elected in conformity with the provisions of this act, shall, each of them, on or before the first Monday of November succeeding such election, execute to the supervisor of his town and file with the town clerk, a bond with one or more sufficient sureties to be approved by the said supervisor by endorsement over his signature on said bond, with a penalty in double the amount of all the school moneys received by his town from all sources during the preceding year

(1) This and the following sections, except where otherwise noticed were taken from the act chapter 480 of Laws of 1847.

and conditioned for the faithful application and legal disbursement of all the school money coming into his hands during his term of office, and for the faithful discharge of all the duties of said office; and in case such bond shall not be executed, filed and approved within the time herein prescribed, the office of such town superintendent shall be deemed vacant; and any such or any other vacancy that may occur in said office, shall be filled by any three justices of the peace of the same town by a warrant under their hands and seals, who are hereby authorized to make such appointments; and the persons so appointed shall hold their respective offices until others are elected or appointed in their places, and shall have the same powers and be subject to the same duties and penalties as if they had been duly chosen by the electors.

When office deemed vacant, and who may appoint.

No. 28—§ 4. The justices making the said appointment shall forthwith cause the said warrant to be filed in the office of the town clerk of the town, and give immediate notice to the person appointed.

Justices to file certificate.

No. 29—§ 5. Every town superintendent elected after this act takes effect shall on executing the bond as before provided, enter upon the duties of his said office on the first Monday of November succeeding his election, and shall hold his office for two years thereafter, and until a successor who shall have been duly elected, shall have taken the oath of office and filed an official bond pursuant to the provisions of this act.

Term of office.

No. 30—§ 6. No town superintendent of a town shall hold the office of trustee of a school district, nor shall a person chosen a trustee, hold the office of district clerk, and no town superintendent shall hold the office of either supervisor or town clerk.

Disabilities.

No. 31—[§ 1.] The office of trustees of the Gospel and school lots in the several towns in this state, is hereby abolished; and the powers and duties now by law conferred and imposed upon said trustees, shall hereafter be exercised by the town superintendent of common schools.¹

Further powers of town superintendents.

No. 32—§ 7. The third, fourth, fifth and sixth articles of title two, chapter fifteen, part first of the Revised Statutes, entitled "Of public instruction," shall be and the same are hereby amended so as to read as follows:

Articles of R. S. amended.

(1) Laws of 1846, chapter 186, § 1.

ARTICLE THIRD.

The powers and duties of the town superintendent of common schools.

Duties of
town super-
intendents.

No. 33—§ 8. It shall be the duty of the town superintendent of common schools in each town,

1. To divide the town into a convenient number of school districts, and to regulate and alter such districts as hereinafter provided:

2. To set off by itself any neighborhood in the town adjoining to any other state of this Union, where it has been usual or shall be found convenient for such neighborhood to send their children to a school in such adjoining state:

3. To describe and number the school districts, and to deliver the description and numbers thereof, in writing, to the town clerk, immediately after the formation or alteration thereof:

4. To deliver to such town clerk a description of each neighborhood, adjoining to any other state, set off by itself:

5. To apply for and receive from the county treasurer all moneys apportioned for the use of common schools in his town, and from the collector of the town, all moneys raised therein for the same purpose, as soon as such moneys shall become payable, or be collected:

6. To apportion the school moneys received on the first Tuesday of April, in each year, among the several school districts, parts of districts and neighborhoods separately set off, within the town, in proportion to the number of children residing in each, over the age of five and under that of sixteen years, as the same shall have appeared from the last annual reports of their respective trustees:

7. If the town superintendent shall have received the school moneys of the town, and all the reports from the several school districts therein, before the first Tuesday of April, he shall apportion such moneys as above directed, within ten days after receiving all of the said reports and the said moneys:

8. To sue for and collect, by his name of office, all penalties and forfeitures imposed in this title, and in respect to which no other provision is made, which shall be incurred by any officer or inhabitant of his town, and after deducting his costs and expenses, to add the sums recovered to the school moneys received by him, to be apportioned and paid in the same manner.

No. 34—§ 9. In making the apportionment of moneys among the several school districts, no share shall be allotted

When mo-
neys with-
held.

to any district, part of a district, or separate neighborhood, from which no sufficient annual report shall have been received, for the year ending on the last day of December, immediately preceding the apportionment.

No. 35—§ 10. In making the apportionment of public money, it shall be the duty of the town superintendent to designate the respective proportions of teachers' and library money belonging to each district, and to pay over as much as is designated teachers' money, on the written order of a majority of the trustees of each district, to the teachers entitled to receive the same.

Teachers' and library money to be designated.

No. 36—§ 11. No moneys shall be apportioned and paid to any district or part of a district, unless it shall appear by such report that a school had been kept therein for at least four months during the year ending at the date of such report, by a qualified teacher; that no other than a duly qualified teacher had at any time during the year for more than one month been employed to teach the school in said district; and that all moneys received during that year have been applied to the payment of the compensation of such teacher; and no portion of the library money shall be apportioned or paid to any district or part of a district, unless it shall appear from the last annual report of the trustees that the library money received at the last preceding apportionment was duly expended according to law, on or before the first day of October subsequent to such apportionment.

When money to be withheld.

No. 37—§ 12. No teacher shall be deemed a qualified teacher, within the meaning of this title, who shall not have received, and shall not then hold a certificate of qualification, dated within one year, from the town superintendent of common schools for the town in which such teacher shall be employed.

Who deemed a qualified teacher.

No. 38—§ 13. No part of such moneys shall be apportioned or paid to any separate neighborhood adjoining another state, unless it shall appear from the report of its trustees that all moneys received by them during the year ending at the date of such report have been faithfully applied, in paying for the instruction of children residing in such neighborhood.

When moneys withheld.

No. 39—§ 14. Whenever an apportionment of the public money shall not be made to any school district, in consequence of any accidental omission to make any report required by law, or to comply with any other provision of law, or any regulation, the state superintendent may direct an apportionment to be made to such district, according to the equitable circumstances of the case, to be paid out of the public money on hand; or if the same shall have been distributed, out of the public money to be received in a succeeding year.

Apportionments to be ordered in certain cases of omission.

No. 40—§ 15. If after the time when the annual reports

Apportionment to district altered after annual report.

are required to be dated, and before the apportionment of the school moneys shall have been made, a district shall be duly altered, or a new district be formed in the town, so as to render an apportionment founded solely on the annual reports, unjust, as between two or more districts of the town, the town superintendent shall make an apportionment among such districts, according to the number of children in each, over the age of five, and under sixteen years, ascertaining that number by the best evidence in his power.

Last section extended to other cases.

No. 41—§ 16. The provisions of the foregoing section shall extend to all cases where a school district shall have been formed at such time previous to the first day of January, as not to have allowed a reasonable time to have kept a school therein for the term of four months, such district having been formed out of a district or districts in which a school shall have been kept for four months by a teacher duly qualified, during the year preceding the first day of January.

Moneys one year in hands of town superintendents.

No. 42—§ 17. All moneys apportioned by the town superintendent, to the trustees of a district, part of a district, or separate neighborhood, which shall have remained in the hands of the town superintendent for one year after such apportionment, by reason of the trustees neglecting or refusing to receive the same, shall be added to the moneys next thereafter to be apportioned by the town superintendent, and shall be apportioned and paid therewith in the same manner.

When returned to treasurer.

No. 43—§ 18. In case any school moneys received by the town superintendent cannot be apportioned by him, for the term of two years, after the same are received, by reason of the non-compliance of all the school districts in his town with the provisions of this title, such moneys shall be returned by him to the county treasurer, to be by him apportioned and distributed, together and in the same manner with the moneys next thereafter to be received by him for the use of common schools.

Annual reports of town superintendents.

No. 44—§ 19. It shall be the duty of the town superintendent in each town, between the first day of July and the first day of August in each year, to make and transmit to the county clerk a report in writing, bearing date on the first day of July, in the year of its transmission, and stating,

1. The whole number of school districts and neighborhoods separately set off within the town :

2. The districts, parts of districts and neighborhoods from which reports shall have been made to him, or his immediate predecessor in office, within the time limited for that purpose :

3. The length of time a school shall have been kept in each of such districts or parts of districts, distinguishing

what portion of that time the school shall have been kept by qualified teachers :

4. The amount of public moneys received in each of such districts, parts of districts and neighborhoods :

5. The number of children taught in each, and the number of children over the age of five and under sixteen years, residing in each :

6. The whole amount of moneys received by him, or his predecessor in office, during the year ending at the date of such report, and since the date of the last preceding report ; distinguishing the amount received from the county treasurer, from the town collector, and from any other and what source :

7. The manner in which such moneys have been expended, and whether any, and what part remains unexpended, and for what cause :

8. The amount of money paid for teachers' wages, in addition to the public money paid therefor, the amount of taxes levied for purchasing school-house sites, for building, hiring, purchasing, repairing and insuring school-houses, for fuel and supplying deficiencies in rate bills, for district libraries, or for any other purposes allowed by law, in the districts, parts of districts and neighborhoods from which reports shall have been received by him or his immediate predecessor in office, with such other information as the state superintendent may from time to time require, in relation to the districts and schools within his town.

No. 45—§ 20. Town superintendents who neglect to furnish the information required by the last preceding section, shall severally forfeit to the town for the use of the common schools therein, the sum of ten dollars, to be sued for by the supervisor of the town. Penalty for neglect.

No. 46—§ 21. In case the town superintendent in any town shall not, on or before the first day of August, in any year, make such report to the clerk of the county, it shall be his duty to give immediate notice of such neglect to the clerk of such town. County clerk to give notice.

No. 47—§ 22. The town superintendent neglecting to make such report within the limited period, shall forfeit to the town, for the use of the common schools therein, the sum of ten dollars; and the share of school moneys apportioned to such town for the ensuing year, may, in the discretion of the state superintendent be withheld, and be distributed among the other towns in the same county, from which the necessary reports shall have been received. Forfeiture money may be withheld.

No. 48—§ 23. When the share of school moneys apportioned to a town, shall thus be lost to the town, by the neglect of its town superintendent, the town superintendent Town superintendents and their sureties liable for the amount.

guilty of such neglect, and his sureties shall be liable for the full amount so lost with interest.

Supervisors
to pro-
secute &c.

No. 49—§ 24. It shall be the duty of the supervisor of the town, upon notice of such loss, from the state superintendent or county treasurer, to prosecute without delay, in the name of the town, for such forfeiture; and the moneys recovered shall be distributed and paid by such supervisor to the several districts, parts of districts, or separate neighborhoods of the town, in the same manner as it would have been the duty of the town superintendent to have distributed and paid them, if received from the county treasurer.

Town supts.
to keep ac-
count.

No. 50—§ 25. The town superintendent in each town, shall keep a just and true account of all school moneys received and expended by him during each year for which he shall have been chosen, and shall lay the same before the board of auditors of town accounts at the annual meeting of such board, in each year.

And render
to successors

No. 51—§ 26. The town superintendent of common schools in each town shall, within fifteen days after the termination of his office, render to his successor in office, a just and true account, in writing, of all school moneys by him received, before the time of rendering such account, and of the manner in which the same shall have been appropriated and expended by him; and the account so rendered shall be delivered by such successor in office to the town clerk, to be filed and recorded in his office.

And pay bal-
ance.

No. 52—§ 27. On rendering such account, if any balance shall be found remaining in the hands of the town superintendent, the same shall immediately be paid by him to his successor in office.

If appropri-
ated to be
paid accord-
ingly.

No. 53—§ 28. If such balance, or any part thereof, shall have been appropriated by the town superintendent to any particular school district, part of a district or separate neighborhood, and shall remain in his hands for the use thereof, a statement of such appropriation shall be made in the account so to be rendered, and the balance paid to such successor in office, shall be paid over by him, according to such appropriation.

Successors
to prosecute

No. 54—§ 29. Such successor in office may bring a suit in his name of office for the recovery, with interest, of any unpaid balance of school moneys, that shall appear to have been in the hands of any previous town superintendent on leaving his office, either by the accounts rendered by such town superintendent, or by other sufficient proof, and in case of the death of such town superintendent, such suit may be brought against his representatives.

Corporation.

No. 55—§ 30. The town superintendent in each town, shall have the powers and privileges of a corporation, so far

as to enable him to take and hold any property transferred to him for the use of common schools in such town.

Pay of town
superintend-
ents.

No. 56—§ 31. The town superintendent shall be entitled to receive one dollar and twenty-five cents per day for every day actually and necessarily devoted by him in his official capacity, to the service of the town for which he may be chosen, the same to be paid in like manner as other town officers are paid.

Of the duty of town clerks.

No. 57—§ 32. It shall be the duty of the town clerk of each town, Duty of town
clerks.

1. To receive and keep all reports made to the town superintendent from the trustees of school districts, and all the books and papers belonging to the town superintendent, when required, and to file them in his office:

2. To receive all his estimates and apportionments of school money, and to record the same in a book to be kept for that purpose:

3. To notify the town superintendent, upon receiving notice from the county clerk that he has not made his annual report, for the purpose of making such report.

ARTICLE FOURTH.

Of inspection and supervision by town superintendents.

No. 58—§ 33. The town superintendent in each town shall be the inspector of common schools therein. Who inspec-
tors.

No. 59—§ 34. It shall be his duty to examine all persons offering themselves as candidates for teaching common schools in such town. Their duty
as to teach-
ers.

No. 60—§ 35. In making such examination, it shall be the duty of the town superintendent to ascertain the qualifications of the candidate, in respect to moral character, learning and ability. 1b.

No. 61—§ 36. If he shall be satisfied in respect to the qualifications of the candidate, he shall deliver to the person so examined, a certificate signed by him, in such form as shall be prescribed by the state superintendent. 1b.

No. 62—§ 37. The town superintendent may annul any such certificate given by him or his predecessors in office, when he shall think proper, giving at least ten days' previous notice in writing to the teacher holding it, and to the trustees of the district in which he may be employed, of his intention to annul the same. 1b.

No. 63—§ 38. The town superintendent, whenever he shall deem it necessary, may require a re-examination of all or 1b.

any of the teachers in his town, for the purpose of ascertaining their qualifications to continue as such teachers.

ib. No. 64—§ 39. The annulling of a certificate shall not disqualify the teacher to whom it was given, until a note in writing thereof, containing the name of the teacher, and the time when his certificate was annulled, shall be made by the town superintendent, and filed in the office of the town clerk.

Their duty
as to teach-
ers.

No. 65—§ 40. When any school district shall be composed of parts of two or more towns, the town superintendent of the town in which the school house of such district may be situated, shall examine into and certify the qualifications of any teacher offering to teach in such district, in the same manner as is provided by the preceding sections of this article, and may also in the same manner annul the certificate of such teacher; and no school-house shall be erected so as to stand on the division lines of any two or more towns.

To visit
schools.

No. 66—§ 41. It shall be the duty of the town superintendent to visit all such common schools, within his town, as shall be organized according to law, at least twice a year, and oftener if he shall deem it necessary.

Must exam-
ine, &c.

No. 67—§ 42. At such visitation, the town superintendent shall examine into the state and condition of such schools, both as respects the progress of the scholars in learning, and the good order of the schools; and may give his advice and direction to the trustees and teachers of such schools as to the government thereof, and the course of studies to be pursued therein.

ARTICLE FIFTH.

Of the formation and alteration of school districts.

When super-
visor and
town clerk
to be as-
sociated, &c.

No. 68—§ 43. In the erection or alteration of a school district, the trustees of any district to be affected thereby, may apply to the supervisor and town clerk to be associated with the town superintendent; and their action shall be final unless duly appealed from; the compensation of the supervisor and town clerk when thus associated, shall be the same as that of the town superintendent.

Who may
form and re-
gulate joint
districts.

No. 69—§ 44. Whenever it may become necessary or convenient to form a district out of two or more adjoining towns, the town superintendent of each of such adjoining towns, or the major part of them, may form, regulate and alter such district.

When alter-
ations to
take effect.

No. 70—§ 45. No alteration of any school district, made without the consent of the trustees thereof, shall take effect until three months after notice, in writing, shall be given by the town superintendent, to some one or more of such trus-

tees; nor shall any alteration or regulation of an organized school district be made to take effect between the first day of December in any one year, and the first day of May following.

No. 71—§ 46. If the town superintendent in any town, shall require by notice in writing, the attendance of the town superintendents of any other town or towns, at a joint meeting for the purpose of altering a school district formed from their respective towns, and a major part of the town superintendents notified shall refuse or neglect to attend, the town superintendents attending, by a majority of votes, may call a special district meeting of such district, for the purpose of deciding on such proposed alteration; and the decision of such meeting shall be as valid as if made by the town superintendents of all the towns interested, but shall extend no further than to dissolve the district formed from such towns.

Joint meeting of town superintendents.

No. 72—§ 47. When a new district shall be formed from one or more districts, possessed of a school house, and in cases where any district from which such new district shall be in whole or in part formed, shall be entitled to other property than its school house, then the town superintendent of common schools, at the time of forming such new district, shall sell at public auction said school house and other property belonging thereto, and precede the sale thereof by printed or written notices, to be posted in at least five public places in the district interested in such sale.

Altering district, how school house &c., disposed of.

No. 73—§ 48. The proceeds of such sale shall be divided between the parts of said district, in proportion to the assessed value of the parts respectively, to be applied by them towards the erection of new school houses.

Proceeds how to be appropriated

No. 74—§ 49. No such sale shall take place where the inhabitants of the several parts into which such district shall be divided at a special meeting, called for that purpose, shall agree upon a division of such property among them.

When sale cannot be made.

No. 75—§ 50. When two or more districts shall be consolidated into one, the new district shall succeed to all the rights of property possessed by the districts of which it shall be composed; and when a district is annulled, and portions of it are annexed to other districts, that district into which the school house, or its site or any other property of such dissolved district may fall, shall succeed to all the rights of the annulled district in respect to such property, and whenever two or more districts or parts of districts shall be united, and there shall be more than one school house in such new or altered district, the trustees of such district may sell the site and buildings thereon, of either or both the school houses situated in such new district.

Effect of consolidating or annulling districts.

Appraisal of
property of
dissolved dis-
trict.

No. 76—§ 51. In cases where by the dissolving a district, its school house or other property shall be annexed or included in another district, the town superintendent, by whose order such dissolution was effected, shall appraise such property in the manner provided by law in cases of the creation of new districts; and the proportions assigned to the inhabitants of such dissolved district who are not annexed to the district which includes the school house, or other property, shall be raised by the trustees of such last mentioned district and paid over to the trustees of the district to which such inhabitants are annexed, in the same manner as in case of the creation of a new district, and to be applied to the same purpose.

Moneys of
such district.

No. 77—§ 52. When there shall be any moneys in the hands of the officers, of a district that is or may be annulled, or belonging to such district, the town superintendent of the town may demand, sue for and recover the same, in his name of office, and shall apportion the same equitably between the districts to which the several portions of such annulled district may have been annexed, to be held and enjoyed as district property.

Trustees of
dissolved
districts may
make out
rate bills, &c

No. 78—§ 53. Whenever a school district shall be dissolved by consolidation, or otherwise, it shall be the duty of the trustees of such district to make out all the necessary rate-bills and tax-lists, and issue their warrants according to law, for the collection of all such sums of money as shall be necessary to discharge all legal liabilities of such district so dissolved or consolidated, and to call special meetings of the legal voters of such district, if it be necessary; to raise money by tax, to discharge such demands, and the collector to whom any such rate-bill or tax-list and warrant shall be delivered for collection, shall have power to execute the same in the same manner and with the like authority as though such district had not been dissolved or consolidated.

Of the powers of school district inhabitants, and of the choice, duties and powers of school district officers.

Town super-
intendents to
give notice.

No. 79—§ 54. Whenever any school district shall be formed in any town, it shall be the duty of the town superintendent, within twenty days thereafter, to prepare a notice in writing, describing such district, and appointing a time and place for the first district meeting, and to deliver such notice to a taxable inhabitant of the district.

Notice for
first meeting

No. 80—§ 55. It shall be the duty of such inhabitant to notify every other inhabitant of the district, qualified to vote at district meetings, by reading the notice in the hearing of such inhabitant, or in case of his absence from home, by leaving

a copy thereof, or of so much thereof as relates to the time and place of such meeting, at the place of his abode, at least six days before the time of the meeting.

No. 81—§ 56. In case such notice shall not be given, or the inhabitants of a district shall refuse or neglect to assemble, or form a district meeting, when so notified; or in case any such district, having been formed and organized in pursuance of such notice, shall afterwards be dissolved, so that no competent authority shall exist therein, to call a special district meeting in the manner hereinafter provided; such notice shall be renewed by the town superintendent, and served in the manner above prescribed.

When to be renewed.

No. 82—§ 57. Every taxable inhabitant to whom a notice of a district meeting shall have been properly delivered for service, who shall refuse or neglect to serve the notice in the manner above in this article enjoined, shall for every such offence forfeit the sum of five dollars.

Penalty for not serving.

No. 83—§ 58. Whenever any district meeting shall be called, in the manner prescribed in the preceding sections of this article, it shall be the duty of the inhabitants of the district, qualified to vote at district meetings, to assemble together at the time and place mentioned in the notice.

Inhabitants when to assemble.

No. 84—§ 59. Every male person of full age, residing in any school district, and entitled to hold lands in this state, who owns or hires real property in such district subject to taxation for school purposes, and every resident of such district authorized to vote at town meetings of the town in which such district or part of district is situated, and who has paid any rate-bill for teachers' wages in such district, within one year preceding, or who owns any personal property liable to be taxed for school purposes in such district, exceeding fifty dollars in value, exclusive of such as is exempt from execution, and no others, shall be entitled to vote at any school district meeting held in such district.

Qualification of voters in school district meetings.

No. 85—§ 60. If any person offering to vote at any school district meeting, shall be challenged as unqualified by any legal voter in such district, the chairman presiding at such meeting shall require the person so offering, to make the following declaration: "I do declare and affirm that I am an actual resident of this school district, and that I am qualified to vote at this meeting." And every person making such declaration shall be permitted to vote on all questions proposed at such meeting; but if any person shall refuse to make such declaration, his vote shall be rejected.

Challenge and oath.

No. 86—§ 61. Every person who shall wilfully make a false declaration of his right to vote at a district meeting, upon being challenged as herein before provided, shall be deemed guilty of a misdemeanor, and punishable by imprisonment

Penalty for false declaration.

in the county jail for a term not exceeding one year, nor less than six months, at the discretion of the court; and any person voting at any school district meeting without being qualified, shall, on conviction, be subject to a fine of ten dollars, to be sued for and recovered by the trustees of the district for its use, and with costs of suit, before any justice of the peace.

Powers of
district
meeting.

No. 87—§ 62. The inhabitants so entitled to vote, when so assembled in such district meeting, or when lawfully assembled at any other district meeting, shall have power, by a majority of the votes of those present :

1. To appoint a chairman for the time being:
2. To adjourn from time to time, as occasion may require:

3. To choose a district clerk, three trustees, a district collector, and a librarian at their first meeting, and as often as such offices or either of them become vacated:

4. To designate a site for a district school house :

5. To lay such tax on the taxable inhabitants of the district, as the meeting shall deem sufficient to purchase or lease a suitable site for a school house, and to build, hire or purchase such school house, and to keep in repair and furnish the same with the necessary fuel and appendages:

6. To alter, repeal and modify their proceedings from time to time as occasion may require:

7. To vote a tax for the purchase of a book for the purpose of recording the proceedings in their respective districts:

8. With the consent of the town superintendent of the town, to designate sites for two or more school houses, for such district, and lay a tax on the taxable property in such district, to purchase or lease such sites, and to hire, build or purchase such school houses, and to keep in repair, and furnish the same with necessary fuel and appendages, and may also in their discretion lay a tax, not exceeding twenty dollars in any one year, to purchase maps, globes, black-boards, and other school apparatus.

Trustees
first elected
to be classed
by lot.

No. 88—§ 63. The trustees chosen at the first legal meeting of any school district, shall be divided by lot into three classes, to be numbered, one, two and three; the term of office of the first class shall be one year, of the second, two, of the third, three; and one trustee only shall thereafter annually be elected, who shall hold his office for three years, and until a successor shall be duly elected or appointed. In case of a vacancy in the office of either of the trustees, during the period for which he or they shall have been respectively elected, the person or persons chosen or appointed to fill such vacancy shall hold the office only for the unexpired term.

No. 89—§ 64. Every notice of a district meeting called in pursuance of this act shall state the purpose for which such meeting is called. Contents of notice.

No. 90—§ 65. In each school district an annual meeting shall be held at the time and place previously appointed; and at the first district meeting, and at each annual meeting, the time and place of holding the next annual meeting shall be fixed. Annual meetings.

No. 91—§ 66. Whenever the time for holding annual meetings in a district for the election of district officers shall pass without such election being held, a special meeting shall be notified by the clerk of such district to choose such officers; and if no such notice be given by him or the trustees last elected or appointed, within twenty days after such time shall have passed, the town superintendent or town clerk may order any inhabitant of such district qualified to vote at district meetings, to notify such meeting in the manner provided by law in case of the formation of a new district; and the officers chosen at any such special meeting, shall hold their office until the time for holding the next annual meeting. Special meeting for election of district officers.

No. 92—§ 67. When the clerk and all the trustees of a school district shall have removed or otherwise vacated their office, and where the records of a district shall have been destroyed or lost, or where trustees neglect or refuse to call meetings to choose trustees, the superintendent shall have authority to order such meetings, and the same shall be notified in the manner provided by law in the case of the formation of new districts. When superintendent may order school district meetings.

No. 93—§ 68. When in consequence of the loss of the records of a school district, or the omission to designate the day for its annual meeting, there shall be none fixed, or it cannot be ascertained, the trustees of such district may appoint a day for holding the annual meeting of such district. When trustees may fix time for annual meeting.

No. 94—§ 69. A special meeting shall be held in each district whenever called by the trustees; and the proceedings of no district meeting, annual or special, shall be held illegal for want of a due notice to all the persons qualified to vote thereat, unless it shall appear that the omission to give such notice was wilful and fraudulent. Special meetings.

No. 95—§ 70. No tax to be voted by a district meeting for building, hiring or purchasing a school house, shall exceed the sum of four hundred dollars, unless the town superintendent of the town in which the school house is to be situated, shall certify in writing his opinion that a larger sum ought to be raised, and shall specify the sum; in which case, a sum not exceeding the sum so specified, shall be raised; and in districts composed of parts of several towns, the certificate Limitation of tax for school houses.

of a major part of the superintendents of said towns shall be necessary for such purpose.

Tax may be raised by instalments.

No. 96—§ 71. Whenever a majority of all the taxable inhabitants of any school district, to be ascertained by taking and recording the ayes and noes of such inhabitants attending at any annual, special or adjourned school district meeting legally called or held, shall determine that the sum proposed and provided for in the next preceding section, shall be raised by instalments; it shall be the duty of the trustees of such district, and they are hereby authorized to cause the same to be levied, raised and collected, in equal annual instalments, in the same manner, and with the like authority that other school district taxes are raised, levied and collected, and to make out their tax list and warrant, for the collection of such instalments as they become payable according to the vote of the said inhabitants; but the payment or collection of the last instalment shall not be extended beyond five years from the time such vote was taken; and no vote to levy any such tax shall be reconsidered except at an adjourned general or special meeting to be held within thirty days thereafter, and the same majority shall be required for reconsideration as is required to levy such tax.

Town superintendents may equalize valuations in certain cases.

No. 97—§ 72. In every case where a district embraces a part of more than one town, the town superintendents of the towns so in part embraced, upon application of the trustees of such districts, or of those persons liable to pay taxes upon real property therein, shall proceed to enquire and determine whether the valuation of real property upon the several assessment rolls of said towns are substantially just as compared with each other, so far as such district is concerned, and if determined not to be so, they shall determine the relative proportion of taxes that ought to be assessed upon the real property of the parts of such districts so lying in different towns, and the trustees of such district shall thereupon assess the proportion of any tax thereafter to be raised according to the determination of said superintendents until the same shall be altered by said superintendents upon like application, using the assessment rolls of the several towns to distribute the said proportion among the persons liable to be assessed for the same. In cases where two superintendents shall be unable to agree, they shall summon a superintendent from some adjoining town, who shall unite in such inquiry and determination.

Sites of school houses when and how altered.

No. 98—§ 73. Whenever a school house shall have been built or purchased for a district, the site of such school house shall not be changed, nor the building thereon be removed, as long as the district shall remain unaltered, unless by the consent, in writing, of the town superintendents of

common schools, of the town or towns within which such district shall be situated, stating that in their opinion such removal is necessary; nor then, unless a majority of all the taxable inhabitants of said district to be ascertained by taking and recording the ayes and noes, at a special meeting called for that purpose, shall be in favor of such new site.

No. 99—§ 74. Whenever the site of a school house shall have been changed as herein provided, the inhabitants of the district entitled to vote, lawfully assembled at any district meeting, shall have power by a majority of the votes of those present, to direct the sale of the former site or lot, and the buildings thereon, and appurtenances, or any part thereof, at such price, and upon such terms as they shall deem most advantageous to the district; and any deed duly executed by the trustees of such district, or a majority of them, in pursuance of such direction, shall be valid and effectual to pass all the estate or interest of such school district in the premises intended to be conveyed thereby, to the grantee named in such deed; and when a credit shall be directed to be given upon such sale, for the consideration money, or any part thereof, the trustees are hereby authorized to take in their corporate name, such security by bond and mortgage, or otherwise, for the payment thereof, as they shall deem best, and shall hold the same as a corporation, and account therefor to their successors in office and to the district, in the manner they are now required by law to account for moneys received by them; and the trustees of any such district for the time being, may in their name of office, sue for and recover the moneys due and unpaid upon any security so taken by them, or their predecessors in office, with interest and cost.

Sale of former sites.

Deed therefor.

Security for purchase how taken.

No. 100—§ 75. All moneys arising from any sale made in pursuance of the last preceding section, shall be appropriated to the payment of the expenses incurred in procuring a new site, and in removing or erecting a school house, or either of them, so far as such application thereof shall be deemed necessary.

Avails to be applied to new site, &c.

No. 101—§ 76. The clerk, trustees, collector and librarian of each school district, shall hold their respective offices until the annual meeting of such district next following the time of their appointment, and until others shall be elected in their places.

District officers.

Tenure.

No. 102—§ 77. In case the office of trustee shall be vacated by the death, refusal to serve, removal out of the district, or incapacity of any such officer, and the vacancy shall not be supplied by a district meeting within one month thereafter, the town superintendent of the town may appoint any person residing in such district to supply such vacancy.

Vacancies how filled.

1b.

No. 103—§ 78. In case of a vacancy in the office of school district clerk, collector or librarian, for any of the causes mentioned in the next preceding section, such vacancy may be supplied by appointment under the hands of the trustees of the district or a majority of them, and the persons so appointed shall hold their respective offices until the next annual meeting of the district, and until others are elected in their places.

Forfeitures.

No. 104—§ 79. Every person duly chosen or appointed to any such office, who, without sufficient cause, shall refuse to serve therein, shall forfeit the sum of five dollars; and every person so chosen or appointed, and not having refused to accept, who shall neglect to perform the duties of his office, shall forfeit the sum of ten dollars.

Resignations

No. 105—§ 80. Any person chosen or appointed to any such office, may resign the same by presenting his resignation to the town superintendent of the town where such officer shall reside, who is authorised for sufficient cause shown to him, to accept the same, and the acceptance of such resignation shall be a bar to the recovery of either of the penalties mentioned in the preceding section. The town superintendent accepting the resignation shall give notice thereof to the clerk, or to one of the trustees of the school district, to which the officer resigning shall belong.

Duty of district clerk.

No. 106—§ 81. It shall be the duty of the clerk of each school district,

1. To record the proceedings of his district in a book to be provided for that purpose by the district, and to enter therein true copies of all reports made by the trustees of his district, to the town superintendent.

2. To give notice of the time and place for special district meetings, when the same shall be called by the trustees of the district, to each inhabitant of such district liable to pay taxes, at least five days before such meeting shall be held, in the manner prescribed in the fifty-fifth section of this act:

3. To affix a notice in writing of the time and place for any adjourned district meeting, when the same shall be adjourned for a longer time than one month, in at least four of the most public places of such district, at least five days before the time appointed for such adjourned meeting:

4. To give the like notice of every annual district meeting:

5. To keep and preserve all records, books and papers; belonging to his office, and to deliver the same to his successor in office; and in case of his neglect or refusal so to do, he shall be subject to a fine of not exceeding fifty dollars.

Of the duty of trustees of school districts.

No. 107—§ 82. It shall be the duty of the trustees of every school district, and they shall have power,

Duty of trustees.

1. To call special meetings of the inhabitants of such districts liable to pay taxes, whenever they shall deem it necessary and proper:

2. To give notice of special, annual and adjourned meetings in the manner prescribed in the last preceding section, if there be no clerk of the district, or he be absent or incapable of acting:

3. To make out a tax list of every district tax, voted by any such meeting, containing the names of all the taxable inhabitants residing in the district at the time of making out the list, and the amount of tax payable by each inhabitant, set opposite to his name:

4. To annex to such tax list a warrant, directed to the collector of the district, for the collection of the sums in such list mentioned:

5. To purchase or lease a site for the district school house, as designated by a meeting of the district, and to build, hire or purchase, keep in repair, and furnish such school house with necessary fuel and appendages, out of the funds collected and paid to them for such purposes:

6. To have the custody and safe-keeping of the district school-house:

7. To contract with and employ all teachers in the districts:

8. To pay the wages of such teachers when qualified, out of the moneys which shall come into their hands from the town superintendents, so far as such moneys shall be sufficient for that purpose; and to collect the residue of such wages, excepting such sums as may have been collected by the teachers, from all persons liable therefor:

9. To divide the public moneys received by them, whenever authorized by a vote of their district, into not exceeding two portions for each year; to assign and apply one of such portions to each term during which a school shall be kept in such district, for the payment of the teacher's wages during such term; and to collect the residue of such wages, not paid by the proportion of public money allotted for that purpose, from the person liable therefor, as above provided:

10. To exempt from the payment of the wages of teachers, either in part or wholly, such indigent persons within the district as they shall think proper, in any one quarter or term, and the same shall be a charge upon such district:

11. To certify such exemptions and deliver the certificate thereof to the clerk of the district, to be kept on file in his office:

12. To ascertain by examination of the school lists kept by such teachers, the number of days for which each person not so exempted shall be liable to pay for instruction, and the amount payable by each person :

13. To make out a rate bill containing the name of each person so liable, and the amount for which he is liable ; and to annex thereto a warrant for the collection thereof :

14. To deliver such rate bill, with the warrant annexed, after the expiration of thirty days from the time the same shall have been made out and signed by them, and notices thereof posted as provided for the payment and collection of district taxes, to the collector of the district, who shall execute the same in like manner with other warrants directed by such trustees, to such collector for the collection of district taxes.

Further duty
of trustees
as to rate
bills.

No. 108—§ 83. The said trustees, after such rate bill and warrant shall be made out and signed as herein provided, shall cause notices thereof signed by them to be posted in their district as directed in the case of the collection of district taxes, and it shall be the duty of the said trustees, or one of them, or the teacher to whom the moneys in such rate bill are payable, at any time within thirty days thereafter, to receive payment from any person named therein, of the sum due from such person, and the same proceedings shall be had to compel and enforce the payment of the sums of money remaining due on such rate bills after the expiration of the said thirty days, as is herein provided for the collection of district taxes, and the collector to whom any such rate bill and warrant shall be delivered for collection shall possess the same power, be entitled to the same fees, and subject to the same restrictions and liabilities with their bail and sureties, as by this title is provided in proceeding to collect school district taxes.

Deficiencies
in rate bills
or taxes how
to be raised.

No. 109—§ 84. Where by reason of the inability to collect any tax or rate bill, there shall be a deficiency in the amount raised, the inhabitants of the district in district meeting shall direct the raising of a sufficient sum to supply such deficiency by tax, or the same shall be collected by rate bill, as the case may require.

Of the assessment and collection of school district taxes.

Trustees
how to pro-
ceed in mak-
ing out tax
list.

No. 110—§ 85. In making out a tax list, the trustees of school districts shall apportion the same on all the taxable inhabitants of the district or corporations holding property therein, according to the valuations of the taxable property which shall be owned or possessed by them at the time of making out such list within such district or partly within such district and partly in an adjoining district, and upon all real

estate lying within the boundaries of such district, the owners of which shall be non-residents, and which shall be liable to taxation for town or county purposes, and shall be situated within three miles of the site of the school-house in such district. But when it shall be ascertained that the proportion of any tax upon any lot, tract or parcel not occupied by any inhabitant would not amount to fifty cents, the trustees in their discretion may omit such lot, tract or parcel from the tax list.

No. 111—§ 86. Any person working land under a contract for a share of the produce of such land, shall be deemed the possessor, so far as to render him liable to taxation therefor, in the district where such land is situate. Certain occupants deemed possessors.

No. 112—§ 87. Every person owning or holding any real property within any school district, who shall improve and occupy the same by his agent or servant, shall, in respect to the liability of such property to taxation, be considered a taxable inhabitant of such district, in the same manner as if he actually resided therein. And are taxable.

No. 113—§ 88. Where any district tax for the purpose of purchasing a site for a school-house, or for purchasing, or building, keeping in repair, or furnishing such school-house with necessary fuel and appendages, shall be lawfully assessed and paid by any person, on account of any real property, whereof he is only tenant at will, or for three years, or for a less period of time, such tenant may charge the owner of such real estate with the amount of the tax so paid by him, unless some agreement to the contrary shall have been made by such tenant. Remedy of tenant against owners.

No. 114—§ 89. When any real estate within a district, so liable to taxation, shall not be occupied and improved by the owner, his servant or agent, and shall not be possessed by any tenant, the trustees of any district at the time of making out any tax list by which any tax shall be imposed thereon, shall make and insert in such tax list a statement and description of every such lot, piece or parcel of land so owned by non-residents therein, in the same manner as required by law from town assessors in making out the assessment roll of their towns; and if any such lot is known to belong to an incorporated company liable to taxation in such district, the name of such company shall be specified, and the value of such lot or piece of land shall be set down opposite to such description, which value shall be the same that was affixed to such lot or piece of land in the last assessment roll of the town; and if the same was not separately valued in such roll, then it shall be valued in proportion to the valuation which was affixed in the said assessment roll to the whole tract, of which such lot or piece shall be a part. Non-resident land to be described.

Collectors' duty as to unpaid taxes.

No. 115—§ 90. If any tax on the real estate of a non-resident mentioned in the tax list delivered to the collector shall be unpaid at the time he is required by law to return his warrant, he shall deliver to the trustees of such district an account of the taxes so remaining due, containing a description of the lots and pieces of land upon which any taxes were imposed as the same were stated in his tax list together with the amount of the tax assessed on each, and upon making oath before any justice of the peace or judge of any court of record that the taxes mentioned in such account remain unpaid, and that after diligent efforts he has been unable to collect the same, he shall be credited by said trustees with the amount thereof.

Duty of trustees.

No. 116—§ 91. Whenever the trustees of any school district shall receive such an account of unpaid taxes from any collector, they shall compare the same with the original tax list, and if found to be a true transcript, they shall add to such account a certificate to the effect that they have compared the same with the original tax list and found it to be correct, and shall immediately transmit such account, with the affidavit of the collector, and their certificate to the treasurer of the county.

County treasurer.

No. 117—§ 92. Out of any moneys in the county treasury, raised for contingent expenses, the county treasurer shall pay to the trustees of the school district in which such taxes were imposed, the amount thereof so returned as unpaid.

Supervisors.

No. 118—§ 93. Such account, affidavit and certificate shall be laid, by the county treasurer, before the board of supervisors of the county, who shall cause the amount of such unpaid taxes, with seven per cent of the amount in addition thereto, to be levied upon the lands of non-residents on which the same were imposed, and if imposed upon the lands of any incorporated company, then upon such company, in the same manner that the contingent charges of the county are directed to be levied and collected, and when collected the same shall be returned to the county treasury to reimburse the amount so advanced, with the expense of collection.

Owner may pay tax.

No. 119—§ 94. Any person whose lands are included in any such account may pay the tax assessed thereon to the county treasurer, at any time before the board of supervisors shall have directed the same to be levied.

Proceedings to collect.

No. 120—§ 95. The same proceedings in all respects shall be had for the collection of the amount so directed to be raised by the board of supervisors as are provided by law in relation to county taxes; and upon a similar account as in the case of county taxes of the arrears thereof uncollected, being transmitted by the county treasurer to the comptroller,

the same shall be paid on his warrant to the treasurer of the county advancing the same ; and the amount so assumed by the state shall be collected for its benefit, in the manner prescribed by law in respect to the arrears of county taxes upon lands of non-residents; or if any part of the amount so assumed consisted of a tax upon any incorporated company, the same proceedings may also be had for the collection thereof as provided by law, in respect to the county taxes assessed upon such company.

No. 121—§ 96. The valuations of taxable property shall be ascertained so far as possible, from the last assessment roll of the town; and no person shall be entitled to any reduction in the valuation of such property, as so ascertained unless he shall give notice of his claim to such reduction, to the trustees of the district, before the tax list shall be made out. Valuations how ascertained.

No. 122—§ 97. In every case where such reduction shall be duly claimed, and in every case where the valuation of taxable property cannot be ascertained, from the last assessment roll of the town, the trustees shall ascertain the true value of the property to be taxed, from the best evidence in their power, giving notice to the persons interested, and proceeding in the same manner as the town assessors are required by law to proceed, in the valuations of taxable property. Ib.

No. 123—§ 98. Every taxable inhabitant of a district, who shall have been, within four years, set off from any other district without his consent, and shall, within that period have actually paid in such other district, under a lawful assessment therein, a district tax for building a school-house, shall be exempted by the trustees of the district where he shall reside, from the payment of any tax for building a school house therein. Exemption in certain cases.

No. 124—§ 99. Every district tax shall be assessed, and the tax list thereof be made out by the trustees, and a proper warrant attached thereto, within one month after the district meeting in which the tax shall have been voted; and when there shall be a tax of more than one hundred dollars, it shall be the duty of the trustees of the district immediately thereafter to cause notices of the completion thereof, to be posted up in three of the most public places in the district, and so located as to be most likely to give notice to the inhabitants thereof, and shall designate in such notices a convenient place in such district, where the said trustees, or one of them will attend from one to five o'clock in the afternoon, at least once in each week for two successive weeks, on a day also to be specified in such notice, to receive payment of the taxes mentioned in such tax list; and it shall be the duty of the said trustees or one of them to attend accordingly, and Time when tax list must be made out

any person may pay his taxes to such trustee at the time and place designated, or at any other time and place to any trustee having the said tax list and warrant, within fifteen days from the first posting of the said notices.

Tax list to
be delivered
to collectors.

No. 125—§ 100. It shall be the duty of the said trustees after the expiration of the said fifteen days, to deliver the said tax list and warrant to the collector of the district, and such collector is hereby authorized and directed to proceed and collect the unpaid taxes remaining in said tax lists, in the manner provided by law, and shall pay over to the said trustees, all the moneys collected or received by him on such tax list within thirty days from the time of the receipt of such warrant and tax list, and such collector shall be entitled to receive five per cent fees on each dollar by them respectively collected, which said fees shall be collected with such unpaid taxes from the several and respective persons named in said tax list.

His duty
thereon.

Forfeiture
for neglect.

No. 126—§ 101. If by the neglect of any collector, any school moneys shall be lost to any school district, which might have been collected within the time limited in the warrant delivered to him for their collection, he shall forfeit to such district the full amount of the moneys thus lost, and shall account for and pay over the same to the trustees of such district, in the same manner as if they had been collected.

Trustees
may sue.

No. 127—§ 102. For the recovery of all forfeitures, and of balances in the hands of a collector which he shall have neglected to pay over, the trustees of the district may sue in their name of office, and shall be entitled to recover the same with interest and costs; and the moneys recovered shall be applied by them in the same manner as if paid without suit.

Authority of
collector on
warrant.

No. 128—§ 103. Any collector to whom any such tax list and warrant may be delivered for collection, may execute the same in any other district or town in the same county, or in any other county, where the district is a joint district, and composed of territory from adjoining counties, in the same manner, and with the like authority as in the district in which the trustees issuing the said warrant may reside, and for the benefit of which said tax is intended to be collected, and the bail or sureties of any collector given for the faithful performance of his official duties, are hereby declared and made liable for any moneys received or collected on any such tax list and warrant, and may be prosecuted for the recovery thereof.

Blank books
to be pro-
cured by
trustees.

No. 129—§ 104. It shall be the duty of the trustees of school districts, to procure for the use of their district, two bound blank books from time to time, as shall be necessary, in one of which the accounts of all moneys received and paid by

the trustees, and a statement of all moveable property belonging to the district, shall be entered at large, and signed by such trustees, at or before each annual meeting in such district. In the other of the said books, the teachers shall enter the names of the scholars attending school, and the number of days they shall have respectively attended, and also the days on which such school shall have been inspected by the town superintendent; which entries shall be verified by the oath or affirmation of the teachers, and shall constitute the list on which rate bills shall be apportioned. The said books shall be preserved by the trustees as the property of the district, and shall be delivered to their successors.

Scholars to be registered

No. 130—§ 105. Where the necessary fuel for the school of any district shall not be provided, by means of a tax on the inhabitants of the district, it shall be the duty of every person sending a child to the school, to provide his just proportion of such fuel.

Fuel how provided.

No. 131—§ 106. The proportion of fuel which every person sending children to the school, shall be liable to provide, shall be determined by the trustees of the district, according to the number of children sent by each; but such indigent persons as in the judgment of the trustees, shall be unable to provide the same, shall be exempted from such liability.

Proportion of how determined.

No. 132—§ 107. If any person liable to provide such fuel, shall omit to provide the same, on notice from any one of such trustees, it shall be the duty of the trustees to furnish such fuel, and to charge the person so in default the value of the fuel so furnished.

When trustees to furnish and charge delinquent.

No. 133—§ 108. Such value may be added to the rate bill of the moneys due for instruction, and may be collected therewith, and in the same manner; or the trustees may sue for and recover the same, in their own names, with costs of suit.

Ib.

No. 134—§ 109. When the trustees of any school district are required or authorized by law, or by vote of their district, to incur any expense for such district, and when any expenses incurred by them are made by express provision of law a charge upon such district, they may raise the amount thereof by tax in the same manner as if the definite sum to be raised had been voted by a district meeting, and the same shall be collected and paid over in the same manner.

Certain charges on district to be raised by tax.

No. 135—§ 110. The warrant issued and annexed to any tax list or rate bill, shall be under the hands of the trustees of the district or a majority of them, and it shall not be necessary for the said trustees to affix their seals to any such warrant.

Warrant.

No. 136—§ 111. The warrants issued by the trustees of school districts for the collection of any district tax authorized to be levied, raised and collected by this title, or for the collec-

Manner of levying and collecting taxes.

tion of any district school rate bill shall have the like force and effect as warrants issued by boards of supervisors of counties to collectors of taxes in towns; and the collector to whom any such warrant may be delivered for collection is hereby authorized and required to collect from every person in such tax list or rate bill named, the sum therein set opposite to his name, or the amount due from any person or persons specified therein, in the same manner that collectors are authorized to collect town and county charges.

Trustees
may renew
warrants or
sue delin-
quents.

No. 137—§ 112. If the sum or sums of money, payable by any person named in such tax list or rate bill, shall not be paid by him, or collected by such warrant within the time therein limited, it shall and may be lawful for the trustees to renew such warrant, in respect to such delinquent person; or in case such person shall not reside within their district, at the time of making out a tax list or rate bill, or shall not reside therein at the expiration of such warrant, and no goods or chattels can be found therein whereon to levy the same; the trustees may sue for and recover the same, in their name of office.

Error in tax
lists or rate
bills how
corrected.

No. 138—§ 113. Whenever the trustees of any school district shall discover any error in a tax list or rate bill made out by them, they may with the approbation and consent of the state superintendent, after refunding any amount that may have been improperly collected on such tax list or rate bill, if the same shall be required, amend and correct such tax list or rate bill, in conformity to law; and whenever more than one renewal of a warrant for the collection of any tax list or rate bill, may become necessary in any district, the trustees may make such further renewal, with the written approbation of the town superintendent of the town in which the school house of said district shall be located, to be endorsed upon such warrant.

Proceedings
when town
superintend-
ents with-
hold moneys

No. 139—§ 114. If the moneys apportioned to a district by the town superintendent shall not have been paid, it shall be the duty of the trustees thereof, to bring a suit for the recovery of the same, with interest, against the town superintendent in whose hands the same shall be, or to pursue such other remedy for the recovery thereof, as is or shall be given by law.

Of the annual reports of trustees, their duties and liabilities.

Annual re-
ports of trus-
tees.

No. 140—§ 115. The trustees of each school district shall, between the first and fifteenth days of January, in every year, make and transmit a report, in writing, to the town superintendent for such town, dated on the first day of January, in the year in which it shall be transmitted.

No. 141—§ 116. Every such report, signed and certified by a majority of the trustees making it, shall be delivered to the town superintendent, and shall specify, How made.

1. The whole time any school has been kept in their district during the year ending on the day previous to the date of such report, and distinguishing what portion of the time such school has been kept by qualified teachers : Its contents.

2. The amount of moneys received from the town superintendent during such year, and the manner in which such moneys have been expended :

3. The number of children taught in the district during such year, and the name and age of each child :

4. The name and age of each child residing in the district on the last day of December previous to the making of such report, over the age of five years, and under sixteen years of age, (except Indian children otherwise provided for by law,) and the names of the parents or other persons with whom such children shall respectively reside, and the number of children residing with each :

5. The amount of money paid for teachers' wages, in addition to the public money paid therefor, the amount of taxes levied in said district for purchasing school-house sites, for building, hiring, purchasing, repairing and insuring school-houses, for fuel, for supplying deficiencies in rate bills, for district libraries, or for any other purpose allowed by law, and such other information in relation to the schools and the districts as the superintendent of common schools may from time to time require.

No. 142—§ 117. It shall be not lawful for the trustees of any school district to include in their annual returns the names of any children who are supported at a county poor-house. or orphan asylum. Paupers and inmates of orphan asylums not to be returned

No. 143—§ 118. The annual reports of trustees of school districts, of children residing in their district, shall include all over five and under sixteen years of age, who shall, at the date of such report, actually be in the district, composing a part of the family of their parents or guardians, or employers, if such parents, guardians, or employers reside at the time in such district, although such residence be temporary, but such report shall not include children belonging to the family of any person who shall be an inhabitant of any other district in this state, in which such children may by law be included in the reports of its trustees. Children to be included in annual reports of trustees.

No. 144—§ 119. The trustees of school districts shall not enumerate and include in their annual reports any Indian children residing on Indian reservations where schools are taught. Indian children not to be included.

Children entitled to attend schools.

No. 145—§ 120. All children included in the reports of the trustees of any new school district shall be entitled to attend the schools of such district ; and whenever it shall be necessary for the accommodation of the children in any district, the trustees thereof may hire, temporarily, any room or rooms for the keeping of schools therein, and the expense thereof shall be a charge upon such district.

District formed from two or more towns how to report.

No. 146—§ 121. Where a school district is formed out of two or more adjoining towns, it shall be the duty of the trustees of such district to make and transmit a report to the town superintendent for each of the towns out of which such district shall be formed, within the same time, and in the same manner, as is required by sections one hundred and fifteen, and one hundred and sixteen of this act ; distinguishing the number of children over the age of five and under sixteen years, residing in each part of a district which shall be in a different town from the other parts, and the number of children taught, and the amount of school moneys received from each part of the district.

Separate neighborhoods, how to report.

No. 147—§ 122. Where any neighborhood shall be set off by itself, the inhabitants of such separate neighborhood shall annually meet together and choose one trustee; whose duty it shall be every year, within the time limited for making district reports, to make and transmit a report in writing, bearing date on the first day of January, in the year in which it shall be transmitted to the town superintendent of the town from which such neighborhood shall be set off, specifying the number of children over the age of five and under sixteen years, residing in such neighborhood, the amount of moneys received from the town superintendent since the date of last report, and the manner in which the same has been expended.

Penalty for false report.

No. 148—§ 123. Every trustee of a school district, or separate neighborhood, who shall wilfully sign a false report to the town superintendent of his town, with the intent of causing such town superintendent to apportion and pay to his district or neighborhood, a larger sum than its just proportion of the school moneys of the town, shall for each offence, forfeit the sum of twenty-five dollars, and shall also be deemed guilty of a misdemeanor.

Property of districts how held,

No. 149—§ 124. All property now vested in the trustees of any school district, for the use of schools in the district, or which may be hereafter transferred to such trustees for that purpose, shall be held by them as a corporation.

Trustees to account annually.

No. 150—§ 125. The trustees of each school district shall, once in each year render to the district, at its annual district meeting, a just and true account in writing, of all moneys received by them respectively for the use of their district ;

and of the manner in which the same shall have been expended, which account shall be delivered to the district clerk, and be filed and recorded by him.

No. 151—§ 126. Any balance of such moneys, which shall appear from such account to remain in the hands of the trustees, or either of them, at the time of rendering the account, shall immediately be paid to some one or more of their successors in office. Balance paid to successors.

No. 152—§ 127. Every trustee who shall refuse or neglect to render such account, or to pay over any balance so found in his hands, shall for each offence forfeit the sum of twenty-five dollars. Forfeiture for neglect.

No. 153—§ 128. It shall be the duty of his successors in office to prosecute, without delay, in their name of office, for the recovery of such forfeiture; and the moneys recovered shall be applied by them to the use and benefit of their district schools. How prosecuted.

No. 154—§ 129. Such successors shall also have the same remedies for the recovery of any unpaid balance in the hands of a former trustee, or his representatives, as are given to the town superintendent against a former town superintendent and his representatives; and the moneys recovered shall be applied by them to the use of their district, in the same manner as if they had been paid without suit. Remedy against former trustees.

No. 155—§ 130. Every trustee of a school district who shall, while in office, neglect or refuse annually to render an account of the moneys received by him as such trustee, shall for each offence forfeit the sum of twenty five dollars; and it shall be the duty of the town superintendent of the town in which such trustee may reside, to prosecute, without delay, in his name of office, for the recovery of such forfeiture; and the moneys recovered shall be applied by such superintendent to the use and benefit of the district school of the district to which such defaulting trustee shall belong. Trustee in office how and by whom prosecuted for neglect.

No. 156—§ 131. Such town superintendent shall also have the same remedies for the recovery of any unpaid balance of moneys, in the hands of such delinquent trustee, in office, as are given to the town superintendents in office, against a former town superintendent; and the moneys recovered shall be applied by such town superintendent to the use of the district to which the same may belong, and be paid over to the trustee or trustees of such district, who are not in default. Remedy to town superintendents.

No. 157—§ 132. Any person conceiving himself aggrieved in consequence of any decision made: Appeals to superintendent of common schools.

1. By any school district meeting:
2. By the town superintendent in the forming or altering,

or in refusing to form or alter any school district, or in refusing to pay any school moneys to any such district:

3. By the trustees of any district, in paying any teacher, or refusing to pay him, or in refusing to admit any scholar gratuitously into any school:

4. Or concerning any other matter under the present title may appeal to the superintendent, who is hereby authorized and required to examine and decide the same, and the decision of the state superintendent shall be final and conclusive.

Of school district libraries.

No. 158—§ 133. The taxable inhabitants of each school district in the state, shall have power when lawfully assembled at any district meeting, to lay a tax on the district not exceeding ten dollars in any one year, for the purchase of a district library, consisting of such books as they shall in their district meeting direct, and such further sum as they may deem necessary for the purchase of a book case: The intention to propose such tax, shall be stated in the notice required to be given of such meeting.

No. 159—§ 134. The clerk of the district, or such other person as the taxable inhabitants may at their annual meeting designate and appoint by a majority of votes, shall be the librarian of the district, and shall have the care and custody of the library, under such regulations as the inhabitants may adopt for his government.

No. 160—§ 135. The taxes authorized by the foregoing section to be raised, shall be assessed and collected in the same manner as a tax for building a school house.

No. 161—§ 136. The sum of fifty-five thousand dollars, together with an equal sum to be raised in the towns, and directed to be distributed to the several school districts of this state, by the fourth section of chapter two hundred and thirty-seven, of the laws of eighteen hundred and thirty-eight, shall continue to be applied to the purchase of books for a district library, until otherwise directed; but whenever the number of volumes in the district library of any district, numbering over fifty children between the ages of five and sixteen years, shall exceed one hundred and twenty-five; or of any district numbering fifty children or less, between the said ages, shall exceed one hundred volumes, the inhabitants of the district qualified to vote therein, may, at a special or annual meeting duly notified for that purpose, by a majority of votes, appropriate the whole, or any part of the library money belonging to the district for the current year, to the purchase of maps, globes, black-boards, or other scientific apparatus, for the use of the school: And in every district having the required number of volumes in the district libra-

ry, and the maps, globes, black-boards, and other apparatus aforesaid, the said moneys, with the approbation of the state superintendent, may be applied to the payment of teachers' wages.

No. 162—§ 137. The trustees of every school district shall be trustees of the library of such district; and the property of all books therein, and of the case and other appurtenances thereof, shall be deemed to be vested in such trustees, so as to enable them to maintain any action in relation to the same: It shall be their duty to preserve such books and keep them in repair; and the expenses incurred for that purpose, may be included in any tax list to be made out by them as trustees of a district, and added to any tax voted by a district meeting, and shall be collected and paid over in the same manner: The librarian of any district library shall be subject to the directions of the trustees thereof, in all matters relating to the preservation of the books and appurtenances of the library, and may be removed from office by them for wilful disobedience of such directions, or for any wilful neglect of duty.

Who trustees of libraries.

No. 163—§ 138. Trustees of school districts shall be liable to their successors for any neglect or omission, in relation to the care and superintendence of district libraries, by which any books therein are lost or injured, to the full amount of such loss or injury in an action on the case, to be brought by such successors in their name of office.

Liability of trustees.

No. 164—§ 139. A set of general regulations respecting the preservation of school district libraries, the delivery of them by librarians and trustees to their successors in office, the use of them by the inhabitants of the district, the number of volumes to be taken by any one person at any one time or during any term, the periods of their return, the fines and penalties that may be imposed by the trustees of such libraries for not returning, for losing or destroying any of the books therein, or for soiling, defacing, or injuring them, and the conditions upon which any school district may apply the library money to the payment of teachers' wages, may be framed by the state superintendent, and printed copies thereof shall be furnished to each school district of the state; which regulations shall be obligatory upon all persons and officers having charge of such libraries, or using or possessing any of the books thereof: Such fines may be recovered in an action of debt, in the name of the trustees of any such library, of the person on whom they are imposed, except such person be a minor; in which case they may be recovered of the parent or guardian of such minor, unless notice in writing shall have been given by such parent or guardian to the trustees of such library, that they will not be respon-

Regulations by superintendent.

Fines how recovered.

sible for any books delivered such minor: And persons with whom such minors reside shall be liable in the same manner and to the same extent, in cases where the parent of such minor does not reside in the district.

Appeals to
superintend-
ent.

No. 165—§ 140. Any person conceiving himself aggrieved by any act or decision of any trustees of school districts, concerning district libraries, or the books therein, or the use of such books, or of any librarian, or of any district meeting in relation to their school library, may appeal to the state superintendent in the same manner as provided by law.

Joint libra-
ries by two
or more dis-
tricts.

No. 166—§ 141. The legal voters in any two or more adjoining districts may, in such cases as may be approved by the town superintendent, unite their library moneys and funds as they shall be received or collected, and purchase a joint library for the use of the inhabitants of such districts, which shall be selected by the trustees thereof, or by such persons as they shall designate, and shall be under the charge of a librarian to be appointed by them; and the foregoing provisions of this act shall be applicable to the said joint libraries, except that the property in them shall be deemed to be vested in all the trustees, for the time being, of the districts so united. And in case any such district shall desire to divide such library, such division shall be made by the trustees of the two districts whose libraries are so united, and in case they cannot agree, then such division shall be made by the town superintendent.

When
money has
been with-
held state
superinten-
dent may di-
rect its ap-
plication.

No. 167—§ 142. Where, by reason of the non-compliance with the conditions prescribed by law, the library money shall be withheld from any school district, the same may be distributed among other districts complying with such conditions, or may be retained and paid subsequently to the district from which the same was withheld, as shall be directed by the state superintendent according to the circumstances of the case.

When state
superinten-
dent may se-
lect libra-
ries.

No. 168—§ 143. The state superintendent whenever requested by the trustees of a school district, under the directions of the legal voters of such district, may select a library for their use, and cause the same to be delivered to the clerk of the county in which such district is situated, at its expense.

ARTICLE SIXTH.

Of certain duties of the county clerks.

SEC. 172.—County clerk to report to the superintendent of common schools; what, and when.

SEC. 173.—Forfeiture for neglecting it.

SEC. 174.—Who to prosecute for it, and where paid when recovered.

SEC. 175.—Duty of county clerk when commissioners [town superintendents] do not report.

No. 169—§ 172. [§ 112]. It shall be the duty of each county clerk, between the first day of August and the first day of October, in every year, to make and transmit to the superintendent of common schools, a report in writing, containing the whole number of towns in his county, distinguishing the towns from which the necessary reports have been made to him by the town superintendent of common schools, and containing abstracts of all such reports in such form as the state superintendent shall direct. [Amended by § 3 of chap. 358, of 1847.] To transmit school reports.

No. 170—§ 173. [§ 113]. Every clerk who shall refuse or neglect to make such report, within the period so limited, shall, for each offence, forfeit the sum of one hundred dollars to the use of the school fund of the state. Penalty for neglect.

No. 171—§ 174. [§ 114]. It shall be the duty of the superintendent of common schools to prosecute without delay, in his name of office, for such forfeiture, and to pay the moneys recovered, into the treasury of the state, to the credit of the school fund. How prosecuted and applied.

No. 172—§ 144. It shall be the duty of each county clerk, immediately after the first day of August in every year, in case the town superintendent of any town in his county shall have neglected to make to him his annual report, to give notice of such neglect to the clerk of the town, who shall immediately notify such town superintendent for the purpose of making his report.¹ Notice to town clerk.

Miscellaneous provisions connected with the foregoing articles.

No. 173—§ 145. Town superintendents, trustees, collectors and clerks of school districts, refusing or wilfully neglecting to make any report, or to perform any other duty required by law, or by regulations or decisions made under the authority of any statute, shall severally forfeit to their town, or to their district as the case may be, for the use of the common schools therein, the sum of ten dollars for each such neglect or refusal, which penalty shall be sued for and collected by the supervisor of the town, and paid over to the Penalty on certain officers for neglect of duty.

To be sued for by supervisor of town.

(1) Laws of 1847, chap. 480, § 144.

proper officers to be distributed for the benefit of the common schools in the town or district to which such penalty belongs; and when the share of school or library money apportioned to any town or district, or school or any portions thereof, or any money to which a town or district would have been entitled, shall be lost in consequence of any wilful neglect of official duty by any town superintendent or trustees or clerks of school districts, the officers guilty of such neglect shall forfeit to the town or district the full amount, with interest, of the moneys so lost; and they shall be jointly and severally liable for the payment of such forfeiture.

Costs not allowed in certain suits against school officers.

No. 174—§ 146. In any suit which shall hereafter be commenced against town superintendents or officers of school districts, for any act performed by virtue of, or under color of their offices, or for any refusal or omission to perform any duty enjoined by law, and which might have been the subject of an appeal to the superintendent, no costs shall be allowed to the plaintiff in cases where the court shall certify that it appeared on the trial of the cause that the defendants acted in good faith. But this provision shall not extend to suits for penalties, nor to suits or proceedings to enforce the decisions of the superintendent.

Provision in case of suits being commenced.

No. 175—§ 1.a Whenever a suit shall have been commenced or shall hereafter be commenced against any of the officers of a school district for any act performed by virtue of, or under color of their office, and such suit shall have been finally determined, it shall be the duty of the trustees to ascertain in the manner hereinafter described, the actual amount of all the costs, charges and expenses paid by such officer, and to cause the same to be assessed upon and collected of the taxable inhabitants of said district in the same manner as other taxes of said district are by law assessed and collected, and when so collected, to pay the same over to the officer by virtue of this act entitled to receive the same; but this provision shall not extend to suits for penalties, nor suits or proceedings to enforce the decisions of the superintendent.

Persons paying costs to present an account verified by oath.

No. 176—§ 2. Whenever any person mentioned in the first section of this act shall have paid any costs, charges or expenses as mentioned in said first section, he shall make out an account of such charges, costs and expenses so paid by him, giving the items thereof, and verify the same by his oath or affirmation; he shall serve a copy of said account so sworn to, upon the trustees of the district against which such claim shall be made, together with a notice in writing that on a certain day therein specified, he will present such

account to the board of supervisors of the county in which such school district shall be situated, for settlement at some legal meeting of such board; and it shall be the duty of the officer upon whom such copy, account and notice shall be served, to attend at the time and place in such notice specified, to protect the rights and interests of such district upon such settlement.

No. 177—§ 3. Upon the appearance of the parties, or upon due proof of service of the notice and copy of account mentioned in second section of this act, if the said board shall be of opinion that such account or any portion thereof ought justly to be paid to the claimant, such board may by an order to be made by a majority of all the members elected to the same, and to be entered in its minutes, require such account or such part thereof as such board shall be of opinion ought justly to be paid to the claimant, by such district to be so paid; but no portion of such account shall be so ordered to be paid which shall appear to the said board to have arisen from the wilful neglect or misconduct of the claimant. The account, with the oath of the party claiming the same, shall be prima facie evidence of the correctness thereof. The board may adjourn the hearing from time to time as justice shall seem to require.

Payment when to be ordered by supervisors.

No. 178—§ 4. It shall be the duty of the trustees of any school district, within thirty days after service of a copy of such order upon them to cause the same to be entered at length in the book of records of said district, and to issue to the collector of said district a warrant for the collection of the amount so directed to be paid, in the same manner and with the like force and effect as upon a tax voted by said district.

Copy of order to be entered on district records.

No. 179—§ 1. *b* No person shall wilfully disturb, interrupt or disquiet any assemblage of persons met at any school district, with the assent of the trustees of the school district, for the purpose of receiving instruction in any of the branches of education usually taught in the common schools of this state, or in the science of music.

Disturbing schools prohibited.

No. 180—§ 2. Whoever shall violate the provisions of the foregoing section, may be tried before any justice of the peace of the county, or any mayor, alderman, recorder, or other magistrate of any city where the offence shall be committed; and upon conviction, shall forfeit a sum not exceeding twenty-five dollars, for the use and benefit of the school district in which such offence shall be committed.

Penalty.

No. 181—§ 3. It shall be the duty of the trustees of any school district in which any such offence shall be committed,

Trustees to prosecute.

to prosecute such offender before any officer having cognizance of such offence.

Delinquent
may be
committed.

No. 182—§ 4. If any person convicted of the offence herein prohibited, shall not immediately pay the penalty incurred, with the costs of conviction, or give security, to the satisfaction of the officer before whom such conviction shall be had, for the payment of the said penalty and costs within twenty days thereafter, he shall be committed by warrant to the common jail of the county, until the same be paid, or for such term, not exceeding thirty days, as shall be specified in such warrant.

Jury trial.

No. 183—§ 5. It shall and may be lawful for any person who may be complained of for a violation of the provisions of this act, to demand of such magistrate that he may be tried by a jury. Upon such demand, it shall be the duty of such officer to issue a venire to the proper officer, commanding him to summon the same number of jurors, and in the same manner, and the said court shall proceed to empanel a jury for the trial of said cause, in the same manner and subject to all the rules and regulations prescribed in the act providing for the trials by jury in courts of special sessions.

Schools for
colored chil-
dren.

No. 184—§ 147. A school for colored children may be established in any city or town of this state, with approbation of the commissioners or town superintendent of such city or town, which shall be under the charge of the trustees of the district in which such school shall be kept; and in places where no school districts exist, or where from any cause it may be expedient, such school may be placed in charge of trustees to be appointed by the commissioners or town superintendent of common schools of the town or city, and if there be none, to be appointed by the state superintendent. Returns shall be made by the trustees of such schools to the town superintendent at the same time and in the same manner as now provided by law in relation to districts; and they shall particularly specify the number of colored children over five and under sixteen years of age, attending such school from different districts, naming such districts respectively, and the number from each. The town superintendent shall appportion and pay over to the trustees of such schools, a portion of the money received by them annually, in the same manner as now provided by law in respect to school districts, allowing to such schools the proper proportion for each child over five and under sixteen years, who shall have been instructed in such school at least four months by a teacher duly licensed, and shall deduct such proportion from the amount that would have been apportioned to the district to which such child belongs; and in his report to the state superintend-

ent, the town superintendent shall specially designate the schools for colored children in his town or city.

No. 185—§ 148. The state superintendent may cause to be printed a sufficient number of forms of reports by trustees of school districts and town superintendents and of lists of pupils attending schools, and cause them to be transmitted to the several county clerks, for the use of those officers and of teachers of schools; and he shall cause title second of chapter fifteen and part first of the Revised Statutes to be printed, and shall insert therein all acts and parts of acts which have been passed by the legislature, connected with the subjects of the said title, which are now in force; and where any provisions of the said title have been altered by the subsequent acts, such provisions shall be varied so as to make them conformable to such alterations; but the original numbers of the sections shall be indicated in such mode as he shall judge proper, except as herein amended or altered. Copies of the said title so amended shall be transmitted to the town superintendent, and all other officers charged with the performance of any duty under its provisions, with such explanations and instructions as may be deemed expedient.

Forms to be printed and distributed.

No. 186—§ 149. The superintendent of common schools is hereby authorized and directed to cause to be printed in a pamphlet form, as many copies of this act and of the forms necessary to be used under its provisions as he may deem sufficient for the information of the trustees of common schools and to cause the same to be distributed for that purpose.

Instructions for executing this act.

No. 187—§ 150. All such provisions of law as are repugnant to or inconsistent with the provisions of this title, are hereby repealed; but nothing herein contained shall be so construed as to impair or affect any of the local provisions respecting the organization and management of schools in any of the incorporated cities or villages or towns of this state, except as the same are affected by the next preceding section of this act.

Laws repugnant, &c., to the act chap. 480 of the Laws of '47, repealed.

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

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INSTRUCTIONS
CONCERNING THE DUTIES OF THE VARIOUS
COUNTY, TOWN AND DISTRICT OFFICERS,
AND OF THE
INHABITANTS OF DISTRICTS,

Under the Laws relating to Common Schools.

~~~~~  
**BOARD OF SUPERVISORS.**

It is their duty as a board, to add to the sums of money to be raised in each town for other purposes, a sum equal to that which shall have been apportioned to such town, by the Superintendent. See No. 20 of Laws. For a neglect of this duty, in addition to other responsibilities, they are liable individually to a penalty of \$250. § 16, Title 2, chap. 12, part 1, Revised Statutes.

It is understood that in some counties this duty is not performed by the board, but that the clerk, or each supervisor for his town, adds to the assessment roll the requisite sums. This practice is entirely unauthorized, and may occasion serious questions respecting the legality of the assessment. There should be a formal resolution entered on the minutes, in a form similar to the following.

*Resolved,* That there be raised, levied and collected on the several towns of this county, the sums following, set opposite to the name of each town, for the support of common schools therein, during the ensuing year; the said sums being equal to those apportioned to the said towns respectively, by the Superintendent of common schools from the income of the common school fund, and the means provided for that purpose; and that the said sums be added to the amounts directed to be raised on such towns for other purposes, and be included in their respective assessment rolls.

In counties where a larger sum is directed by law to be raised upon certain cities, as upon Albany, Brooklyn, Buffalo, Rochester, &c., the resolution will be varied accordingly, by adding, "and that there be raised, levied and collected on the city of \_\_\_\_\_ for the same purpose, the sum of \_\_\_\_\_ in pursuance of the several statutes of the Legislature," ("and in conformity to the resolutions of the common council of said city," in cases where such resolutions are required.)

Where the electors of any town at their annual meeting have voted to raise a sum of money on their town for the support of common schools, under the third subdivision of original section five, (§ 9 in the third edition) of Title 2, Chap. 11, Part first of the Revised Statutes, it is important that this sum should be kept distinct from that directed to be raised by the board of supervisors under original section 17, of the revised school act, No. 20 of Laws. Otherwise it will not appear whether *the county* has raised the sum required by law. It is recommended, therefore, that the resolutions of the board of supervisors, directing the raising of the school money voted by a town, be entered *separately* from that directing the levying of the amount *required* by law to be raised on such town; and that their warrant to the collector specify the sum voted by the town separately as having been so voted, and direct it to be paid to the town superintendent of the town.

By § 93 and 95 of the act of 1847, (Nos. 118 and 120,) the board of supervisors are directed to cause the amount of unpaid taxes on non-resident, unimproved and unoccupied lands, returned to the trustees of the several school districts, and advanced by the county treasurer, together with seven per cent. in addition thereto, to be levied upon the lands of non-residents, liable to pay the same, and the same proceedings in all respects, are to be had for the collection of the amount so directed to be raised, as are provided by law in relation to county taxes.

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## CLERKS OF BOARDS OF SUPERVISORS.

By No. 24 of the laws respecting common schools, they are to transmit on the last day of December in each year, copies of the resolutions and proceedings of their boards respecting the raising of money for library or school purposes; and particularly the amount

directed to be raised in each town. An omission to furnish the evidence of a full compliance with the law may subject a county to serious loss. The resolutions and proceedings referred to will all have been passed before the first day of December in each year, so that there can be no excuse for a neglect to transmit the required copies before the last day of that month.

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## SUPERVISORS OF TOWNS.

By No. 173 of the Laws, they are to sue for and collect the penalty of ten dollars imposed by that section upon town superintendents and clerks of school districts, for refusing or wilfully neglecting to make any report, or to perform any other duty required by law or by regulations or decisions made under the authority of any statute. The "regulations" referred to are those which the Superintendent is authorised to prescribe by (No. 12;) also those which by chap. 480 of Laws of 1847, he may prescribe for the purpose of obtaining information from trustees of school districts and town superintendents, on any subject relating to schools, which he may require (No. 44;) and those also respecting school district libraries, he may make respecting the preservation and use of the books. (No. 164.) The *decisions* referred to, are those which the Superintendent is authorised to make, on appeal to him, under section 132, of the title of the Revised Statutes, as amended by the act of 1847, concerning any matter under the said Title, (No. 157) and also those which the same officer is authorised to make on appeal, under the 140th section of the act, 1847. (No. 165.)

The success of the schools and of the libraries will depend much on the faithful discharge of the duty thus imposed on supervisors. While it is not to be presumed that they will seek slight and trivial occasions to commence prosecutions, it is at the same time expected, that they will not suffer any instance of wilful neglect or perverse refusal to perform any duty enjoined by law, or by the regulations or decisions of the Superintendent, to pass without applying the remedy. This is peculiarly a case where lenity to an offender is injustice to the dearest interests of the public. Officers charged with the sacred trust of superintending the education of the children of the republic—so soon to become citizens—and of diffusing knowledge, by means of the district libraries, ought to make up their

minds faithfully to discharge the obligations they have taken upon themselves, or resign their trusts. A single example in a flagrant case, will not only prevent future disobedience, but will tend most effectually to remove the causes of contentions and disturbance, which destroy the peace and harmony of a district, and terminate in breaking up its school.

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### COUNTY CLERKS.

By § 16 of the school act, (No. 19,) the county clerk is required to transmit a certified copy of any notice of apportionment of school moneys which he may receive from the Superintendent to the county treasurer, and clerk of the board of supervisors of his county. It is of the utmost importance that this duty should be promptly and faithfully performed; as otherwise, the board of supervisors will be ignorant of the necessary amount of school money to be raised on their county; and it may become necessary either to call a special meeting of the board for this purpose, or to withhold the whole or a portion of the public money from distribution.

The annual report heretofore required from the county superintendents, containing a certified copy of the several reports of commissioners, will hereafter be made by the county clerks, in pursuance of § 172 of the Revised Statutes as amended, (No. 169,) from the reports, of the town superintendents, on file with the county clerk.

It is the duty of the county clerk, under § 144 of the school act, (No. 172,) in case any of the reports of the town superintendents are behind, on the first day of August, in each year, immediately thereafter to give notice of such neglect to the town clerk, whose duty it is to apprise such town superintendents of such neglect, and require them to make their report.

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### TOWN CLERKS.

The town clerk is to receive and keep all reports made to the town superintendents by the trustees of school districts, and perform all the other duties required by § 32 of the school laws, (No. 57.)

## COUNTY TREASURERS.

They are to apply to the Comptroller and Treasurer on the first day of February in each year, for the school moneys apportioned by the Superintendent to their respective counties. The *amount* they will ascertain from the copy which the county clerk is required by law to furnish them, of the notice of apportionment transmitted to him.

1. The county treasurer is to draw on the Treasurer of the State, in the following form:

To the Treasurer of the State of New-York:

Pay to the order of *James Jones*, the sum of *five thousand seven hundred and five dollars eighty-eight cents*, being the amount of school moneys apportioned to the county of *Orange* by the Superintendent of Common Schools, to be paid on the 1st day of February, 1840.

Dated this            day of February, 1848.

*Samuel Chase*, County Treasurer  
of the county of *Orange*.  
\$5,705.68

2. To this draft should be annexed a certificate by the clerk of the board of supervisors, as follows:

I hereby certify that *Samuel Chase*, was at the date of above draft, County Treasurer of the county of *Orange*.

Dated this            day of February, 1847.

*William Thomas*, Clerk of the Board of  
Supervisors of the County of *Orange*.

3. When the person in whose favor the draft is drawn does not himself present it for payment, he should endorse it, directing the amount to be paid to a person to be named; and if the latter does not present the draft in person he must endorse it to the individual who is to receive the money. It is essential that these endorsements should be regularly connected.

4. The person to whom the draft has been thus endorsed, or the original payee when it has not been endorsed, will present it to the Comptroller, who will attach his warrant on the Treasurer, by whom it will be paid, on taking a receipt from the person thus presenting

it. If these instructions are followed, and particular attention paid to having the endorsements all regular, no difficulty will be experienced.

Immediately on receiving such moneys, they are to "give notice in writing to the town superintendent of common schools of each town, and to one or more of the commissioners of common schools of each city in the county, of the amount apportioned to such town or city."

Of the whole amount which will be received from the Comptroller, on the 1st of February, 1848, and in each year thereafter for the ensuing three years, until the apportionment is altered, one-fifth part is to be applied to the purchase of district libraries: that being the proportion of money appropriated by the State for that purpose. It is recommended to the county treasurers, that in making their payments to the town superintendents of common schools, they designate the exact sum, which is one-fifth of the whole, and specify it as "library money," and the residue is "teachers' money."

By § 92 and 93 of the act of 1847, (Nos. 117 and 118,) the county treasurer, on receiving from the trustees of any school district an account, affidavit and certificate of unpaid taxes assessed on unoccupied and unimproved non-resident lands, as particularly specified in the preceding sections, (Nos. 114, 115, 116,) is to pay the amount so returned out of any moneys in the treasury raised for contingent expenses; and to lay such account, affidavit and certificate, before the board of supervisors of his county, who are to cause the amount so paid, (unless previously refunded to the county treasurer by the person liable, § 94, No. 119,) to be levied upon the lands of such non-residents in the same manner with other contingent charges of the county. If the amount so advanced by the Treasurer cannot be collected of the persons liable to pay, the Comptroller is to refund the same, and sell the land in the usual manner for arrears of taxes.

## TOWN SUPERINTENDENT OF COMMON SCHOOLS.

His duties relate to,

1st. The division of his town into school districts, the alteration, regulation and description of them:

2d. The receiving and dividing the public school moneys among those districts:

3d. The collection of certain penalties and forfeitures:

4th. The inspection of schools and licensing teachers:

5th. The making of annual reports to the county clerk.

By § 43 of the act of 1847, it is provided that in the erection or alteration of any school district, the trustees of any district to be affected thereby, may apply to the supervisor and town clerk to be associated with the town superintendent; and their action shall be final unless duly appealed from: the compensation of the supervisor and town clerk when thus associated, shall be the same as that of town superintendent.

So much depends upon the proceedings of the town superintendent and his associates, that too much care cannot be taken to insure their regular entry by the town clerk in his book of minutes. Their resolutions are valid, although not recorded, and thus the legality of proceedings by trustees and inhabitants of school districts may be affected without their knowledge. It is therefore earnestly recommended to these officers to require from the town clerk the performance of the duty enjoined on him by law, of recording all their proceedings; and in no case to adjourn without personally examining the minutes of their proceedings as entered in the book kept for that purpose. In no other way can their preservation be secured, or their accuracy insured.

## 1. Proceedings in the formation or alteration of School Districts.

As it is presumed that the present arrangement of school districts comprises all the territory of the state, required to be thus organized, the future formation of districts will necessarily interfere with those already existing; and consequently the provisions of law relating to the *alterations* of districts will be applicable to such proceedings.

In exercising the discretion vested in them on this subject, it is recommended to the town superintendents to ascertain and consult, as far as possible, the opinions and wishes of the inhabitants of the districts interested. The success of the system depends so much upon the hearty concurrence of the people, that it is often better to yield an abstract rule, in order to produce unanimity, than by a rigid adherence to what may be in itself proper, produce discord and dissension. The good sense of a district may be relied upon, to perceive ultimately its true interest, and the loss of time in attaining the desired end, is unimportant when compared with the consequences of defeating the wishes of a decided majority in a district. These remarks of course are not applicable to those clear and manifest cases where great principles are involved, or where the vital interests of a district may be endangered by measures which, although temporarily popular, are sure to be ultimately regretted.

### 1. *Form of a resolution creating a New District.*

At a meeting, &c.

*Resolved*, That a new school district be formed to consist of [the present Districts No. 1 and No. 2; or the present District No. 1 and a part of District No. 2; or parts of Districts No. 1 and No. 2, as the case may be,] which said new district shall be numbered [23,] and shall be bounded as follows: [on the north by the north line of the town of *Trenton*; on the east by the easterly line of the farms and lots of land now occupied by *Thomas Jones, William Thomas, &c.*; on the south by the south line of lots No. 56, 57 and 58, as designated on the map of said town; and on the west by the westerly line of the farms and lots now occupied by A, B, C, D, &c.]

The formation of the aforesaid district, involving an alteration of District No. [1 and No. 2,] the consent of the Trustees of the said districts to such alteration has been presented to the town superintendent, and filed with the town clerk. [Or, if such consent has not been given, the following entry should be made: The formation

of the aforesaid district, involving an alteration of Districts No. 1 and 2, and the consent of the Trustees of District No. 1 to such alteration not having been given, it is ordered that a notice in writing of the said alteration, signed by the town superintendent be served on one of the Trustees of the said district, by the town superintendent.]

2. The consent of the trustees of the altered district may be given by endorsing it on a copy of the order, as follows:

We hereby consent to the alterations made in District No. 1, in the town of *Trenton*, by the order of which the within is a copy. Dated, &c.

A. B. } Trustees of District  
C. D. } No. 1.  
E. F. }

This consent, like all other acts of trustees, should be given at a meeting of the whole, or of a majority, when all have been notified to attend. The statute does not require it to be in writing; but it is advisable to prevent disputes, that a written consent should be filed with the town clerk.

### 3. *Form of Notice to Trustees not giving their consent to an alteration of their District.*

The Trustees of District No. 1, in the town of *Trenton*, will take notice, that an order was made this day by the town superintendent of common schools of the said town, of which the following is a copy, by which certain alterations in the said district are made as will appear by the said order; and that such alterations will take effect after three months from the service of this notice. Dated, &c.

G. H., Town Superintendent of Common  
Schools of the town of *Trenton*.

[Here insert copy of order of town superintendent.]

This notice may be served on any one of the trustees; and it will be found useful to have an acknowledgment of the service by the trustee receiving the notice, endorsed on a copy of it, and filed with the town clerk.

### 4. *Notice of the First Meeting in a District, to organize.*

This is required by law to be given within twenty days after the formation of any district. If the consent of the trustees of the districts interested has been given to the alterations covered by the or-

der, then the notice should be for a day as early as may allow sufficient time for general information. But if it be necessary to give notice of the alteration to the trustees of any district, then the notice for the first meeting should specify a day subsequent to the expiration of three months after service of the notice of alteration, because the district cannot organize until after that time.

The notice may be in the following form:

To ———, a taxable inhabitant of District No. 23, in the town of *Trenton*.

The town superintendent of common schools of the town of *Trenton*, having by an order, of which the following is a copy, formed a new district in the said town, to be numbered 23, consisting of the territory particularly specified in the said order; you are hereby required to notify every inhabitant of the said district qualified to vote at district meetings, to attend the first district meeting of the said district, which is hereby appointed to be held at the house of ——— in the said town, on the ——— day of ——— next, at 6 o'clock in the afternoon, by reading this notice in the hearing of each such inhabitant, or in case of his absence from home, by leaving a copy of this notice, or of so much thereof as relates to the time and place of such meeting, at least six days before the said time so appointed for the said meeting. Dated, &c.

A. B., *Town Superintendent of Common  
Schools of the Town of Trenton.*

A copy of the order forming the district should be annexed to this notice, as the most convenient mode of describing the district, and most likely to prevent errors.

The inhabitant serving the notice should keep a memorandum of the names of the persons notified by him, specifying the manner of notifying, whether by reading or leaving a copy, or the substance of the notice, at the place of abode of any absent voter; and this memorandum, certified by him, should be delivered to the chairman or clerk of the district meeting and read, that it may be ascertained whether notice has been duly given so as to justify the voters in proceeding to the transaction of business; and the original notice and return should be filed with the district clerk, as evidence of the regularity of the organization.

5. If either of the districts from which a new one is formed, is possessed of a school house, or entitled to any other property, as the inhabitants attached to the new district ought to participate in what

has thus been acquired by their contribution, the town superintendent is required, by section 47, [No. 72] of the school laws, to sell the school house and other property of the district divided, at public auction, giving notice of the sale as required by law, and by § 48 [No. 73] he is to ascertain the amount justly due to such new district, on account of such property. It will be seen that the statute contemplates the indebtedness as being in all cases *to* the new district, and *never from* it, and this must necessarily be the case. For if a school house should happen to fall within the bounds of the new district, still it belongs to the district by which it was erected, and is to be sold by its trustees. The books in the district library, and all other personal property, are to be sold in like manner, as there is no authority for making any partition among the districts, except as provided by § 49 [No. 74.]

The town superintendent having received the proceeds of the sale of the common property must ascertain the debts owing by the old district, and deduct the same from such proceeds and of the balance remaining, the portion belonging to each district is to be determined according to the taxable property of the inhabitants remaining in the old, and those attached to the new district. The valuations of such property must be taken, as far as possible, from the last assessment roll of the town. The amount to which the new district is entitled, viz., the proportion of the inhabitants attached to it, having thus been ascertained, the town superintendent is to pay over the share belonging to the new district to the trustees thereof.

The money thus received by the new district is not to be paid to the individuals whose portions have been ascertained, but is to be applied by the trustees receiving it, towards procuring a school house.

It should be borne in mind, that this sale and distribution of the value of the property on hand, is to be made only when a *new district* is formed; and that the statute does not apply to the case of the mere *alteration* of a district, by the annexation of one or more inhabitants from another district.

Where money is on hand, the town superintendent will, upon proper application, cause an equitable apportionment of it to be made between the new and old districts.

6. By § 51 of the act of December 15th, 1847, (No. 76.) a similar sale of the property belonging to a *dissolved district* is to be made; as in that case, by the previous section 47, (No. 72,) the new or altered district succeeds to the rights of the dissolved or annulled district, in such property as falls within such new or altered district. The proceedings of such sale will be like those already given on the formation of a new district.

7. *Form of a resolution for the alteration of a District.*

At a meeting of, &c.,

*Resolved*, That Districts number 1 and number 2, in the said town, be altered as follows, viz: by setting off the farms and parcels of land occupied by *John Brown, Thomas Jones and William Richards*, from District number one, in which they have heretofore been included to District number two, so that the east boundary of District number one shall hereafter be the easterly line of the farms and parcels of lands occupied by A, B, C, D, &c., and the westerly boundary of district number two shall be the westerly lines of the farms and parcels of land occupied by the said *John Brown, Thomas Jones and William Richards*; the said *John Brown* having consented to be set off as aforesaid. The written consent of the Trustees of the said Districts number one and two, having been presented to the town superintendent, is filed with the Town Clerk; [or, The consent of the Trustees of the said districts respectively, (or of District No. 1 or 2, as the case may be,) not having been given to the said alteration, it is ordered, that a notice in writing of such alteration, signed by the town superintendent, be served on some one of the Trustees of each of the said districts, (or of District No. 1 or 2.)]

In the above form it will be seen that the new boundaries of the districts, caused by the alteration, are given. This is deemed very necessary in order to prevent all mistake or ambiguity, and to preserve a continual record of the actual bounds of the districts. If any of the persons set off consent to the alteration, it should be stated, so that the trustees may know whether he is taxable for building a school house.

The consent of trustees to the alteration, and in case of their not consenting, the notices to them, will be as before given under the 2d and 3d heads.

8. *Proceedings in the formation or alteration of a Joint District from two or more towns.*

A meeting of the town superintendents, &c., of the different towns must be called, by a notice given to each a reasonable time before the day appointed. From the language of section 46, (No. 71,) it may be inferred that the notice should be given by the town superintendent of one town. At all events, that will be the safest course. If the town superintendent of one town, notified to attend a joint meeting, for the purpose of *altering* such district, shall refuse or neglect to attend, the town superintendent attending may call a special meeting of the inhabitants of the district, who may dissolve such district. This is a special case, and a special provision is made for it.

The proceedings in the *formation* of a joint district will be in all respects similar to those previously given in relation to ordinary cases, with the following additions:

As there is no clerk assigned by law to the town superintendents, the officers present should sign the proceedings.

The caption should give the names of the towns to which the town superintendents belong; and the resolutions should be recorded in each of those towns.

## II. Duties of Town Superintendents in receiving and dividing the Public School Money.

1. The town superintendent should apply to the county treasurer for the school money of his town in sufficient time to enable him to make the apportionment on the day prescribed by law. He should be careful to receive the whole amount apportioned to, and collected for, his town, without any deduction for commissions, fees, or any other charges of the treasurer or collector, or any other officer; and should see that the bills paid are current and good, as he will be responsible for the same amount for which he gave his receipt.

2. A practice is said to prevail of making two divisions of the public money among the districts in the course of the year. This is contrary to the express provision of the statute, and is exceedingly reprehensible. The 6th subdivision of section 8, (No. 33,) makes it

the duty of the town superintendent to apportion the school moneys received by him, on the first Tuesday of April in each year; and by the 7th subdivision of the same section, if he have received reports from all the districts before that day, he is to divide the money within ten days after receiving all the reports and the money.

3. He will receive from the town collector a sum equal to that received from the county treasurer, for the support of common schools and the purchase of books. The aggregate, composed of these two sums, is to be apportioned by him among the school districts of his town, in proportion to the number of children over five, and under sixteen years of age, as that number appears by the annual report dated the 1st of January preceding.

By the third subdivision of original section 5, of Title 2, of Chapter 11, Part 1, Rev. Stat. (§ 9, of the third edition,) the electors of each town are authorized, at their annual meeting, to direct a sum to be raised in their town for the support of common schools for the ensuing year, not exceeding that required by law to be raised by the board of supervisors for that purpose. The sum that may be thus voted, may be equal to the whole amount which the supervisors are authorized to assess on the town, including both library money and teachers' money. This construction follows from the language of the fourth section of the act of 1838, respecting the U. S. Deposit Fund, which directs that the sum of \$55,000 shall be annually distributed "to the support of common schools;" although it subsequently directs that it shall be applied to the purchase of a library.

By chapter 257, of the laws of 1829, in those counties where the distinction between town and county poor is abolished, the inhabitants of towns having any funds in the hands of the overseers of the poor, may appropriate all, or any part of such funds, to such purposes as shall be determined at an annual or special town meeting. If appropriated for the benefit of common schools, it is made a fund for that purpose, and is placed under the charge of the town superintendent of common schools of the town. The interest is to be applied by him "to the support of common schools." But the town may, at an annual meeting, direct the whole principal, as well as the interest, to be applied for the benefit of the common schools. [See vol. 1, 2d ed. Rev. Statutes, page 351, and Common School Decisions, page 418.]

The town superintendent will, therefore, be bound to distribute the interest, and the principal when directed by the town, equally among the districts. He cannot adopt a more just or convenient ratio than that established by the existing law, in relation to the public money—the number of children above five, and under sixteen years of age.

No part of the interest or principal of this town fund can be distributed as “library money;” “the whole must be apportioned and paid over as school money.”

There are laws of a similar character respecting the gospel and school lots, which are so local and peculiar as not to justify any particular observations concerning them, in a general circular; except that it seems to the superintendent none of these funds can be applied to the purchase of books.

In apportioning and paying the money in their hands to trustees of school districts, the town superintendents will bear in mind that the “teachers’ money” and the “library money” are entirely independent of each other. The report of the trustees of school districts may entitle them to their “teachers’ money,” and yet they may not have complied with the conditions upon which they are authorized to receive the “library money.” For instance, they may not have expended the latter in the purchase of books, or maps, globes and scientific apparatus; and yet they may have fully complied with the law in regard to their schools. So they may be entitled to “library money,” and yet not have had a school kept four months by a qualified teacher. In all such cases the money appropriated to the different objects, teachers or library, is to be distributed upon the reports relating to those objects only.

The teachers’ money is to be paid over “on the written order of a majority of the trustees of each district, to the teachers entitled to receive the same.” It will therefore be incumbent on the town superintendent to satisfy himself, both of the genuineness of the order, and that the person presenting it has the certificate of the trustees that he is or was a teacher of the district, and duly qualified according to law. In order to entitle a district to its share of teachers’ money, it must appear from its annual report, “that a school had been kept therein for at least four months during the year, ending at the date of such report, by a qualified teacher,” after obtaining a

certificate of competency from the proper authority; that all the teachers' money received during the year has been expended in the payment of such teacher; that no other than a duly qualified teacher had at any time during the year for more than one month been employed to teach the school in said district; and such report must, in all other respects, be in accordance with law, and the requisitions and instructions of the Superintendent, made in pursuance of law. In other words, it must be in the form prescribed by the Superintendent, and must contain all the information required by law and by the department to be given. With the ample opportunities afforded for correction, and for the interposition of the department when requisite, prior to the apportionment, it will hereafter be expected that the apportionment of teachers' money will be made with reference exclusively to the reports and orders of the department, then before the town superintendent; and no application subsequently made for the interposition of the department will be regarded, unless the most satisfactory explanation of the delay is given.

The library money is to be paid over to, or on the order of, a majority of the trustees, on its appearing from the annual report that "the library money received at the last preceding apportionment was duly expended according to law, (in the purchase of books suitable for a district library, or in the purchase of maps, globes, black boards, or other scientific apparatus for the use of the schools, in the cases and in the mode prescribed by the late law, and which will be hereafter considered) on or before the first day of October subsequent to such apportionment." The report must uniformly be accompanied with a catalogue of the library, and must state accurately the number of volumes and their condition; and when the money has been expended in the purchase of apparatus, &c., the authority under which such expenditure has been made, and a full and particular inventory of the articles purchased, must be specifically reported.

By § 147 of the act of 1847, (No. 184,) town superintendents are required to apportion and pay to the trustees of colored schools, established in their town, according to the provisions of that section, a portion of the public money, according to the number of colored children between the ages of 5 and 16 years, appearing by the reports of the trustees to have been instructed in such schools for at least four months during the preceding year by a licensed teacher, and to deduct the amount so apportioned from the shares of the districts from which such children have respectively attended.

### III. Duties of Town Superintendents in relation to the prosecution and collection of penalties and forfeitures.

1. By subdivision 8 of § 8, (No. 33,) the town superintendents are to sue for and collect by their name of office, all penalties and forfeitures imposed by the title relating to common schools, where no other provision is made. Under this provision they are to prosecute for the sum of ten dollars, forfeited by each town superintendent neglecting to make an annual report, imposed by § 22. (No. 47.) The forfeiture of an amount equal to that lost by their neglect, imposed by § 23 (No. 48) is to be sued for by the supervisor. They are also to prosecute for the penalty of five dollars prescribed by § 57, (No. 82,) upon the refusal or neglect of any inhabitant of a district to serve the notice of the first meeting; the same penalty for altogether refusing to serve in a district office; and the penalty of ten dollars for neglecting to perform the duties of a district office, not having refused to accept the same. This last penalty must be distinguished from that imposed by § 145, (No. 173.) That given by No. 104, (§ 79,) is to be recovered for wholly neglecting to perform the duties of a district office, which the incumbent has colorably accepted; see 6 Cowen, 479; while the forfeiture prescribed by No. 173, (§ 145, act of 1847,) is for the neglect of any specific duty, and may be collected for any one wilful omission; and the latter is to be sued for by the supervisor of the town.

They are also to prosecute for the penalty of twenty-five dollars imposed by § 123, (No. 148,) upon every trustee who signs a false report, with the intent of obtaining an unjust proportion of the school moneys of the town. There is reason for suspecting that this duty of trustees, especially in reference to the whole number of children between five and sixteen, in a district, is often performed erroneously. Justice to the several districts requires that the town superintendent should be vigilant in detecting such errors, and in applying the remedy provided by law, in all cases where they arise from design.

The sums collected by them in suits for penalties, after deducting their costs and expenses, are to be added to the school moneys received by them during the year, and apportioned among the several districts.

For the purpose of having authentic evidence of the amount collected, and of its application, town superintendents of common schools are hereby required to state in their annual reports, whether they have or have not, since the date of the preceding report, collected any fines, penalties or forfeitures, and if any, they must specify the amount, and the person of whom collected, the offence for which it was imposed, the amount of costs and charges in its collection, and the disposition made of it.

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#### IV. Duties of Town Superintendents in the inspection of Schools and licensing of Teachers.

The town superintendents are by law inspectors of the common schools of their town, and are entitled to the daily compensation provided by law, for their services as such. The performance of their duties as inspectors, particularly in visiting the schools, is indispensable to the proper and faithful execution of their powers, as they can thus become acquainted with the actual condition of the districts and their schools, and be enabled to determine on the propriety of any alterations necessary to improve them; nor should this duty be relaxed in consequence of the appointment of county superintendents. The local information which their situation enables them to give, and the benefits they will derive from the suggestions of the county superintendents, will much facilitate the labors of each, and render them more useful.

The 41st section of the school act, (No. 66,) makes it the duty of each town superintendent to visit all the common schools in his town which shall be organized, at least twice in each year, and the penalty of ten dollars imposed by § 145 of the act of 1847, (No. 173,) for the neglect of any duty prescribed by law, undoubtedly attaches for the omission to visit the schools. Each town superintendent should visit every school in his town, at least once during each term.

If the opinions of the best and most experienced writers on primary education, are not entirely fallacious; and if all the results of experience hitherto are not deceptive, the consequences of such a vigorous system of inspection will be most happy. The teachers and pupils will feel that they are not abandoned to neglect; the ap-

prehesion of discredit will stimulate them to the greatest effort; while the suggestion of the visitors will tend constantly to the improvement of the schools, and they will themselves be more and more enabled to recommend proper measures from their better acquaintance with the subject.

The following is a form of a certificate to be given to a teacher by the town superintendent:

I hereby certify that I have examined [here insert the name of the teacher,] and do believe that he [or she, as the case may be,] is well qualified in respect to moral character, learning and ability, to instruct a common school in this town for one year from the date hereof.

Given under my hand at            this        day        of        18  
                                                  C. D. Town Superintendent of  
                                                  Common Schools of the town of

A certificate cannot be annulled until ten days previous notice in writing has been given to the teacher and to the trustees of the district in which he has been employed, of the intention to annul the same. As the complaint must necessarily be stated, and its truth investigated before any decision, it would be more convenient to the town superintendent, and more fair and just to the teacher, to apprise him of its nature, in the notice of intention to annul.

The following may be the form of the instrument annulling a certificate:

Having inquired into certain complaints against A. B., heretofore licensed as a teacher of common schools of said town, and being of opinion that he, the said A. B., does not possess the requisite qualifications as a teacher, in respect to moral character, [or "in respect to learning," or "in respect to ability in teaching," as the case may be,] and having given at least ten days' previous notice in writing to said teacher, and to the trustees of the district in which he is employed, of my intention so to do, I have annulled, and hereby do annul the said certificate and license so granted as aforesaid.

Given under my hand this            day of        184  
                                                  C. D. Town Superintendent of  
                                                  Common Schools of the town of

As a note in writing, containing the name of the teacher, and the time when his certificate was annulled, must be filed in the town

clerk's office, to give it effect, the most convenient and effectual mode of complying with the law, will be to make out, sign and file a duplicate of the instrument itself.

## V. Duties of Town Superintendents in respect to their Annual Reports.

Between the first day of July and the first day of August in each year, the town superintendents are to make an annual report to the county clerk. In some instances these reports have been erroneously transmitted to the superintendent, who cannot receive them. The contents of this report are specified in § 19, (No. 44,) and in addition thereto, they are hereby required to state in their annual reports:

1. The number of times the school in each district has been inspected by the town superintendents, to be taken from the abstract furnished by the trustees:

2. The number of volumes in the library of each district, the school house of which is in their town, as returned by the trustees:

3. The amount of money expended in each school district for teachers' wages, besides and beyond the public money apportioned to such district; that is, they will condense from the reports of the trustees the amount paid by individuals, on rate-bills or otherwise, and the amount collected from any local funds, together with all the particulars required by subdivision 8, of § 19, No. 44, of the Laws of 1847:

4. The school books in use in their respective towns. This will be compiled from the reports of the trustees, in which the title of each book, and the aggregate number reported in all the districts will be stated:

5. The number of joint districts, the school houses of which are situated, wholly or in part, in their town:

6. Whether any fines or penalties have been collected by them, and the amount, as herein before required:

7. They are also hereby required to condense from the reports of the several trustees, and to insert in their annual report, in a tabular

form as heretofore annexed, the attendance of pupils in the several district schools for the following different terms, viz:

Those who attended less than two months;

- |   |   |                                  |
|---|---|----------------------------------|
| " | " | two months and less than four;   |
| " | " | four months and less than six;   |
| " | " | six months and less than eight;  |
| " | " | eight months and less than ten;  |
| " | " | ten months and less than twelve; |
| " | " | twelve months:                   |

8. They are also hereby required to report the number of select and private schools in their town, other than incorporated seminaries, and the average number of pupils therein, as stated in the reports of the trustees of the several districts:

9. They are also hereby required to condense, from the reports of the several trustees, the number of schools for colored children taught in their town, specifying the districts in which such schools have been taught, the number of colored children between the ages of 5 and 16, attending such schools; and the amount of public money apportioned to the respective districts from which such children attended, specifying such districts.

The most common mistake committed by these officers, is in their report of the moneys received by them or their predecessors, since the date of the last report. They often confound this money with that received by trustees of districts, which is an entirely different item. This last item is received on the first Tuesday of April, and reported by the trustees on the first of January following, and is embodied in the report among the abstracts of the trustees' reports in the columns headed "amount of money received in each district." But the money received by the town superintendent is that paid to them by the county treasurer and town collector *after* the first of January, and apportioned by them on or before the first Tuesday in April, and is not contained in the reports of the trustees.

In making their annual reports the town superintendents will see that the several columns of their table are correctly footed, and the figures plainly and distinctly made.

## VI. Liabilities of Town Superintendents.

By § 20, (No. 45,) town superintendents neglecting to furnish such information as shall be required of them by the superintendent, severally forfeit to their town the sum of ten dollars, to be sued for by the supervisor.

By § 22, (No. 47,) the same forfeiture is incurred for a neglect to make their annual report within the time prescribed by law; and the share of school moneys belonging to the town for the ensuing year may be withheld at the discretion of the Superintendent, and distributed among the other towns from which the necessary reports were received; and in that event, by the succeeding section, (No. 48,) the officers guilty of such neglect forfeit to their town the full amount, with interest, of the moneys so lost.

By § 29, (No. 54,) every town superintendent refusing or neglecting to pay over any balances remaining in his hands, &c., may be prosecuted for such unpaid balance, and a recovery had against him or his representatives in case of his death.

By § 114, (No. 139,) "If the moneys apportioned to a district shall not have been paid, it shall be the duty of the trustees thereof to bring a suit for the recovery of the same, with interest, against the officer in whose hands the same shall be, or to pursue such other remedy for the recovery thereof as is, or shall be given by law."

This provision is not supposed to refer to cases where the money apportioned to a district is retained in the hands of the town superintendents in consequence of the failure on the part of the district to comply with some provision of law; but to those only of an illegal detention, where the right of the district is undisputed.

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## ANNUAL AND SPECIAL MEETINGS OF INHABITANTS OF SCHOOL DISTRICTS.

The inhabitants of the several school districts are required by law to meet annually, § 65, (No. 90,) and special meetings are authorized to be held, whenever called by the trustees, § 69, (No. 94.) The frequent opportunities thus afforded for the coming together of

the inhabitants of each district, for deliberation and consultation in relation to their schools, and the various interests connected therewith, are calculated to exert a most beneficial influence in favor of education; to promote union, harmony and concert of action in the several districts; and to cement the ties of friendly social intercourse between those having a common interest in the moral and intellectual culture of their children. It is, therefore, of the utmost importance that they should not be neglected; that the inhabitants should be prompt and uniform in their attendance; and that the proceedings should be invariably characterized with that order, regularity, dignity and decorum which can alone command respect, and advance efficiently the objects to be accomplished. To secure as far as possible the attainment of these desirable ends, it is proposed in this place to examine the powers and duties of the inhabitants, when assembled in district meeting, the mode of proceeding, the keeping of the minutes and records, the qualifications of voters, and some other subjects of general interest, connected with the proceedings of district meetings.

*1. Powers and Duties of Inhabitants when assembled in District Meeting.*

These are particularly specified in § 62, (No. 87,) of the act. They are to appoint a chairman to adjourn from time to time as occasion may require; to choose district officers at their first meeting, upon the organization of the district, and as often as vacancies occur, by expiration of the term of office, or otherwise to designate a site for a district school house; to lay such tax on the taxable inhabitants of the district as the meeting shall deem sufficient to purchase or lease a suitable site for a school house, and to build, hire, or purchase such school house, and to keep in repair and furnish the same with necessary fuel and appendages; and to repeal, alter and modify their proceedings from time to time as occasion may require, and to vote a tax to purchase a book in which to record the proceedings of the district.

By the 8th subdivision of this section, (No. 87,) the inhabitants are authorized, with the consent of the town superintendent, to designate sites for two or more school houses for their district, and to lay a tax for the purchase or lease thereof, and for the purchase, hiring or building of school houses thereon, and the keeping in repair and furnishing the same with necessary fuel and appendages.

This provision authorizing more than one site and school house is intended for the accommodation of those districts that may be so peculiarly situated as to render a division inconvenient or not desirable. A banking or other corporation, or some manufacturing establishment liable to taxation, may thus be rendered beneficial to a large territory and a greater number of inhabitants, instead of having its contributions applied for the benefit of a few. And in populous places, it may often be convenient to have a school for very young children distant from that attended by those more advanced. In these and other cases, the districts should not hesitate to exercise the power given by this section. But they should in all cases obtain the previous assent of the town superintendents.

Section 71, (No. 96,) of this act imposes a restriction upon the exercise of the powers of school district inhabitants in levying taxes. In addition to the certificate of the town superintendent required by § 70, (No. 95) to authorize a tax exceeding \$400, to build, hire or purchase a school house, no such tax can be raised without the assent of a majority of *all* the taxable inhabitants of the district, to be ascertained by taking the ayes and noes of those present at the meeting called for the purpose, or to which the proposition to raise such tax shall be submitted. A majority of the taxable inhabitants present at the meeting will not do. The affirmative vote must be equal to a majority of all the *taxable* inhabitants residing in the district. The authority to reconsider any such vote cannot be exercised after thirty days from the time the vote was first taken.

The same section, No. 87, § 62, authorizes the inhabitants in their discretion and without the assent of the town superintendents, to levy a tax not exceeding \$20 in any one year, for the purchase of maps, globes, blackboards and other school apparatus. The principal facts in geography are learned better by the eye than in any other manner, and there ought to be in every school room a map of the World, of the United States, of this State and of the county. Globes also are desirable, but not so important as maps. Large black boards in frames, are indispensable to a well conducted school. The operations in arithmetic performed on them, enable the teacher to ascertain the degree of the pupils' acquirements, better than any result exhibited on slates. He sees the various steps taken by the scholar, and can require him to give the reason for each. It is in fact an exercise for the entire class; and the whole school by this public

process insensibly acquires a knowledge of the rules and operations in this branch of study.

Cards containing the letters of the alphabet or words, may be usefully hung up in the room. Indeed the whole apparatus provided by Mr. Holbrook, is eminently calculated to facilitate the acquisition of knowledge and to render it agreeable.

The amount of the tax which may be voted for the purchase or lease of sites for the district school-house, and for the repairs, furniture, fuel and appendages, is left wholly to the discretion of the district, and is unlimited by law; but no tax for building, hiring or purchasing a school house, can exceed the sum of four hundred dollars, unless on the certificate of the town superintendent that a larger sum, specifying the amount, ought, in his opinion, to be raised; in which case, a sum not exceeding the sum so specified, may be raised, §70, (No. 95.) If the district raise a tax for building, hiring or purchasing two or more school houses, a tax for each may be levied, to the amount of four hundred dollars, without a certificate from the town superintendent.

By the seventy-fourth section of this act, (No. 99,) the inhabitants are authorised, whenever the site of their school house has been legally changed, to direct the sale of the former site or lot and the buildings thereon, and appurtenances, or any part thereof, at such price and upon such terms as they shall deem most advantageous to the district.

By the provisions relative to school district libraries, (No. 158 et seq.) the inhabitants of the several districts are authorised to lay a tax, not exceeding ten dollars in any one year, for the purchase of a district library, consisting of such books as they shall, in their district meeting, direct, and such further sum as they may deem necessary for the purchase of a book case; and also to appoint a librarian, who is to have the care and custody of the library so purchased, under such regulations as they may adopt for his government.

These provisions, it will be observed, are entirely distinct from those which relate to the purchase of books with the public moneys provided by § 136, (No. 161.) They are confined to such books as are obtained by means of a district tax; and wherever the inhabitants do not choose to place the latter on the same footing with the

former, the distinction should be carefully observed. The library directed to be purchased with the public money provided for that purpose, is to be selected by the trustees; the inhabitants have no direct control over such selection; and the rules and regulations for its government are to be prescribed by the superintendent alone; while the library to be raised by tax must consist of such books as the inhabitants, in district meeting shall direct; and the rules and regulations for its management may be adopted at such meeting. Still both classes of books may be placed upon substantially the same footing, by a general direction to the trustees as to the books to be purchased, and the adoption of the rules and regulations prescribed by the superintendent.

Under the one hundred and forty-first section of the act of 1847, relative to district libraries, (No. 166) the legal voters in any two or more adjoining districts may, with the approbation of the town superintendent, unite their library moneys, as they shall be received or collected, and purchase a joint library for the use of the inhabitants of such districts, to be selected by the trustees, or such persons as they shall designate, and to be placed under the charge of a librarian to be appointed by them.

By the one hundred and forty-third section of the act, (No. 168,) the legal voters in any district are authorised to direct the trustees to apply to the superintendent to select and forward to the county clerk for the use of the district, a library.

The application of the library money to the purchase of suitable books, has been directed by the legislature to be continued, subject to this single modification, viz: that "whenever the number of volumes in the district library of any district numbering over fifty children between the ages of five and sixteen years, shall exceed one hundred and twenty-five; or of any district numbering fifty children or less, between the said ages, shall exceed one hundred volumes, the inhabitants of the district qualified to vote therein, may, at a special meeting, duly notified for that purpose, by a majority of votes, appropriate the whole or any part of the library money belonging to the district for the current year, to the purchase of maps, globes, black boards, or other scientific apparatus, for the use of the school. And in every district having the required number of volumes in the library, and the necessary apparatus, the library money, with the ap-

probation of the state superintendent, may be applied to the payment of teachers's wages."

The object of this enactment is two fold. It is designed, in the first instance, to secure to every district, at least one hundred volumes of suitable books for a district library; and to districts numbering over fifty children, one hundred and twenty-five; and in the second, to authorise the inhabitants of any district so supplied, when duly convened for that special purpose, to appropriate so much of the library fund for the current year as they may think proper, to the purchase of maps, globes, black-boards, or scientific apparatus, for the use of the school. In the absence of any such appropriation, or whenever any balance remains unappropriated, the library money or such unappropriated balance, must be applied to the purchase of books; and in any event the money must be expended for the one or the other of these purposes, on or before the first day of October in each year, either for library books, school apparatus, or for teachers' wages, subject to the approbation of the superintendent. It is respectfully recommended to the inhabitants of those districts which are already supplied with the requisite number of books, and of others, whenever they shall reach the specified number, to avail themselves of the power thus conferred upon them, to supply their schools with those useful articles of scientific apparatus which so materially conduce to the improvement of the pupils. Independently of this appropriation, no district should dispense with a black-board; and if suitable maps, globes, and a few of the more simple means of illustrating the elementary truths of science can be superadded, the library money for two or three years, cannot, perhaps, be more advantageously appropriated. In the mean time, the books on hand can be generally read; and such additions to the library as the growing wants and increased intelligence of the district may require, can then be from time to time procured. The advice of the town and state superintendents may at all times be had as to the most proper and judicious appropriation of the fund for the purposes provided for by the section under consideration.

By sub. 9 of §82, (No. 107,) the power of inhabitants of districts to direct the division of the public (teachers') money, into not exceeding two portions for each year, and to assign and apply one of such portions to each term taught during the year by a duly qualified teacher, is expressly recognized.

The powers thus conferred upon inhabitants of school districts, must be strictly pursued, and can in no case be exceeded. No vote or proceeding of a district meeting can be legal for which authority is not expressly or by necessary implication, to be derived from the statute.

## 2. *Mode of Proceeding.*

As a general rule, the punctual attendance of the inhabitants of the district should be secured by the organization of the meeting at the appointed hour, after making a fair allowance, say ten or fifteen minutes, for the variation of time pieces; at the expiration of which time, those in attendance, whatever may be their number, should organise, by the appointment of a chairman. Any number of inhabitants, however small, are competent to the transaction of the business for which the meeting was called, except in the cases where special provision has otherwise been made; but if there be only a very small number present, it will be advisable to adjourn the meeting. The clerk of the district, if present, will act as clerk of the meeting; and in case of his absence, any other inhabitant of the district may be designated by the meeting to act as clerk pro tem. The inhabitants will then proceed to the transaction of the business for which they were convened.

Where officers of the district are to be chosen, the choice should be by ballot, separately for each office; and this mode of proceeding should never be dispensed with where there is reason to believe any difference of opinion exists as to the proper persons to be chosen. Where no such difference of opinion exists, it is still better to regard the choice by ballot as the regular mode, and when dispensed with in any individual case, it should be done by express resolution. All other business of the meeting should be transacted by written resolutions, regularly put to vote in the customary manner; and where, for any reason, the result cannot be accurately ascertained, the numbers voting for or against any resolution, should be determined by a count or by ayes and noes. For this purpose it would be well for the clerk to have always in readiness a list of the legal voters of the district, with a series of columns attached, to designate the manner in which each person votes on any question that may be submitted. When the site is to be changed in a district that has not been altered, the law specifically requires the vote to be taken by ayes and noes. Such lists may be in the following form :

| Names of Voters. | On change of site of school house. |    | On motion to build school house. |    | On resolution to raise tax \$150. |    | On resolution to raise tax for apparatus. |    |
|------------------|------------------------------------|----|----------------------------------|----|-----------------------------------|----|-------------------------------------------|----|
|                  | A.                                 | N. | A.                               | N. | A.                                | N. | A.                                        | N. |
| John Morehouse,  | —                                  |    | —                                |    | —                                 |    | —                                         |    |
| Jacob Custis,... |                                    | —  |                                  | —  | —                                 |    | —                                         |    |
| Thomas Budd,...  | —                                  |    | —                                |    | —                                 |    | —                                         |    |
| William Carroll, |                                    | —  |                                  | —  |                                   | —  | —                                         |    |
| Henry Beltis,... | —                                  |    | —                                |    |                                   | —  |                                           | —  |
| Fred'rick Hough, | —                                  |    | —                                |    |                                   | —  |                                           | —  |
|                  | 4                                  | 2  | 4                                | 2  | 3                                 | 3  | 4                                         | 2  |

### 3. Mode of keeping minutes and records of the proceedings.

The person acting as clerk should keep accurate minutes of the proceedings on loose sheets of paper; and before the meeting is finally adjourned, these minutes should be read and approved by the meeting, and signed by the chairman and clerk, and afterwards transferred into the record book of the district. The following general form may be used for this purpose:

#### *Form of Minutes to be kept by the District Clerk, of proceedings of district meetings.*

At a meeting of the legal voters of school district number , in the town of , held pursuant to adjournment, at , on the day of 18 , [or if it be the annual meeting, say, "at an annual meeting of, &c., held pursuant to appointment and public notice, at, &c." Or if it be a special meeting, say, "at a special meeting of, &c., called by the trustees of said district, and held pursuant to special notice, at, &c. on the day of, &c.] A. B. was chosen chairman, and C. D. was present as district clerk, (or if the clerk be not present, say E. F. was appointed clerk pro tem., the district clerk being absent.)

*Resolved, unanimously, (or by a majority of the votes present, as the case may be, [here enter the proceedings of the district in the form of resolutions, and with as much precision and certainty as possible.]*

Where the subject of a change of site in an unaltered district, has been under discussion, and a determination had by the district, in the manner prescribed by § 73, [No. 98,] the proceedings should be particularly recorded, in the following form:

At a meeting of the taxable inhabitants of district No. , in the town of , held at the school house, in pursuance of notice to all the legal voters therein on the day of , 18 , A. B. was chosen chairman, and C. D. was present as district clerk, or (E. F. was appointed clerk pro tem., the district clerk being absent.) The written consent of the Town Superintendent of Common Schools of the town having been read, stating that in his opinion the removal of the site of the school house in said district is necessary: And it having been moved and seconded that the present site of the school house in the said district be changed, and that the northeast corner of lot No. 10, in the said town, (or of the farm now occupied by A. B. on the northeast corner, formed by the intersection of two certain roads, &c., describing them,) be designated as the site of a school house for the said district, and the question taken by ayes and noes, it was carried, two-thirds of all the taxable inhabitants of said district being present at such special meeting voting for such removal, and in favor of such new site: Those who voted in the affirmative were John Morehouse, Thomas Budd, William Carroll and Frederick Hough, &c.; those who voted in the negative, were Jacob Curtis and Henry Bettis, &c.

Ayes 4. Noes 2.

[In stating the ayes and noes, the Christian names of the voters should be given.]

[Or, and the question being taken by ayes and noes, it was lost, two-thirds of all the taxable inhabitants of said district not voting in favor thereof. The votes are then to be stated as before.]

After changing the site of the school house, in the manner before prescribed, the voters of the district, at the same or any subsequent meeting, may pass a resolution, by a majority of those present, in the ordinary mode, directing the trustees to sell the house, according to No. 99.

#### 4. *Qualification of voters.*

Great difficulty has been heretofore experienced in ascertaining the requisite legal qualifications for voters in school district meetings. The act of 1847 has removed this difficulty, by defining them particularly, and has pointed out the means of ascertaining the right of any individual to vote in such meetings, by a challenge, § 59, 60, 61, (Nos. 84, 85, 86.)

The following general qualifications are required in all cases:

1. The voter must be a male.
2. Of full age, that is, twenty-one years old, or more.
3. He must be an actual resident of the district.

In addition to the above, the voter must possess one or other of the following qualifications:

4. He must be entitled by law to hold land in this State, and must own or hire real property in the district, subject to taxation for school purposes; or,

5. He must be authorised to vote at town meetings of the town in which the district or part of a district is situated; must have paid a rate bill for teacher's wages in the district within one year preceding, or must own personal property, liable to be taxed for school purposes in the district, exceeding fifty dollars in value, exclusive of what is exempt from execution.

Under the above 4th division, are included two classes of persons; citizens owning or hiring real property, subject to taxation, and aliens not naturalised, who have filed the affidavit prescribed by § 16, of title 1, chap. 1, part 2, Revised Statutes, of their intention to become citizens, and of having taken the necessary incipient measures for that purpose, and who own or hire *real property* in the district subject to taxation for school purposes. It does not extend to those who have personal property, but neither own or hire real property. The provision was intended to meet the case of residents, who, although not entitled to vote at town meetings, may have a strong interest in the proceedings of district school meetings.

In reference to the above 5th division, those "citizens of the several towns in this State, qualified by the Constitution to vote for elective officers," are entitled to vote at meetings. [§ 1, title 2, chap. 11, part 1, Revised Statutes.] Of course, persons claiming to vote at district meetings under this qualification, must have been inhabitants of the State for one year, of the county for four months immediately preceding, and must then be actual residents of the town. To these must be added some one of the qualifications above specified in division 5. By § 60, (No. 85,) a challenge is allowed, and the declaration that may be required is given; and by § 61, (No. 86,) penalties for a false declaration, and for voting without being qualified, are imposed.

#### 5. *Reconsideration of proceedings.*

The inhabitants of school districts may reconsider and repeal, alter and modify their ordinary proceedings at any time before they have

been carried into effect, either wholly or in part. But the intention to do so, should be explicitly set forth in the notice of the meeting called for that purpose. When, however, contracts have actually been entered into, liabilities incurred, or expenditures of money had, in the prosecution of any measure directed by the district, a reconsideration will not be sanctioned, as no means exist to indemnify those who may be the losers thereby, and an election of school district officers cannot be reconsidered at a subsequent meeting.

6. *Taxes should be specifically voted.*

Where a tax is voted by the inhabitants for any purpose, the specific amount of the tax, and the particular purpose for which it is designed, should be fully and clearly stated. And where several objects of expenditure are to be provided for, the amount to be raised for each should be expressed in the resolution, in order that the district and the trustees may know the precise extent of their liability, and the mode of its application. There may be cases, however, where the necessary amount to be raised, cannot be ascertained with any approach to accuracy; and in such cases the district may direct the performance of specific acts by the trustees, or authorise them to incur such expenses as may be necessary to the accomplishment of a particular object, to be specified; and the trustees are then authorised by § 109, (No. 134,) to raise such amount by tax upon the district in the same manner as if the definite sum to be raised had been voted. This general delegation of authority should, however, be resorted to only in cases of necessity.

7. *Designation of site of school house.*

When the site of a school house is to be fixed, it should be designated with distinctness and precision. It is very common in many of the districts to vote a site in general terms, as at or near a particular spot, between two points, or by other equally vague descriptions; and in some instances, the precise location has been left to the discretion of the trustees, or of a committee appointed for that purpose. All this is directly contrary to law. The inhabitants in district meeting assembled, are "to designate a site for a district school house," and this designation must be sufficiently explicit, and must be described by metes and bounds, or other known and permanent landmarks, to enable the trustees to locate the site, and to con-

tract for and receive a title to the same; and the best rule will be to make such a description as would be required in a deed of the premises.

### 8. *Change of site.*

By § 73, (No. 98,) it is provided that "whenever a school house shall have been built or purchased for a district, the site of such school house shall not be changed, nor the building thereon be removed, as long as the district *shall remain unaltered*, unless by the consent in writing of the town superintendents of common schools, or a majority of them, of the town or towns within such district, shall be situated, stating that in their opinion such removal is necessary; nor then, unless *two-thirds* of all the taxable inhabitant of the district at a special meeting of such district called for that purpose, and qualified to vote therein, shall vote for such removal, and in favor of such new site."

This provision is designed to secure permanency in the location of the district school house, while the circumstances under which it was so located remain substantially the same. But when an alteration has taken place in the district, *since such location*, either by the *addition* of new inhabitants, and the consequent annexation of new territory from the adjoining districts, or by the setting off of a portion of the inhabitants and territory to some other district, then, the reason for the enactment failing, a change of site may be voted by a majority of the altered district, in the usual manner. When the new site is again established, either in this manner, or by a two-third vote, as provided in the section above quoted, the same principle again prevails. No further alteration can be made while the district remains substantially in the same condition as when the new site was fixed.

The alterations here referred to, must be such as are made in the *territorial boundaries* of the district. Changes of residence by the inhabitants out of the district, or the removal of persons into it from other districts, cannot be deemed alterations within the meaning of the law, while the territory remains the same.

The experience of this department has shown that by far the most fertile sources of contention and difficulty in the various school districts, originate from the proceedings of the inhabitants connected

with the change of the site of their school house. Such a measure should, therefore, only be adopted when the convenience and accommodation of the inhabitants will be essentially promoted thereby; when the altered situation of the district imperatively requires a change; and even then, the full and hearty concurrence not merely of a clear and decided majority of the district, but of the inhabitants generally should be secured before any final decision is made. There must always be a portion of the inhabitants, residing at the extremities of the district, who will experience more or less inconvenience, at particular seasons of the year, in consequence of their distance from the school house; but it is better that these partial inconveniences should be submitted to, than that they should be transferred to others and the whole district plunged into a contention respecting the site. But when, in consequence of the enlargement of the boundaries of the district, a change is indispensable, the inhabitants should come together in a conciliatory and friendly spirit, having no other object in view than the best interests of the district and the convenience of the greatest number: and their action should be deliberate and circumspect—reconciling, as far as possible, the interests of all, and rejecting every proposition calculated to sow the seeds of dissension or disturbance in any portion of the district: bearing in mind that a mere numerical triumph, leaving a large minority dissatisfied and irritated, however gratifying to the successful party for a time, is but a poor compensation for a divided and distracted district, and an embittered and hostile neighborhood.

9. *Building, Hiring, purchasing and Repairing of School Houses and providing Furniture and Appendages.*

When a tax is voted by the inhabitants of a district for building a school house, it is important, not only that the specific amount to be raised should be stated, but if any portion of it is designed to be expended in the erection of other appurtenances, such as a wood-house, necessary, or fence, that those purposes should be specifically set forth in the resolution. It would, in all cases, be desirable that a committee of the inhabitants, consisting of or including the trustees, who are charged by law with the execution of the work, should be appointed to digest, and under the advice of the town superintendent, mature a full plan for the building, appendages and appurtenances, together with a detailed estimate of the expense, and to submit the same at an adjourned meeting, for the sanction and approval of the district. From this proceeding many useful results would follow.

The trustees would be placed in possession of all the information necessary to enable them efficiently and systematically to discharge their duties in contracting for and superintending the erection of the house; an opportunity would be afforded of obtaining and comparing the best models of architecture, and the inhabitants would be enabled to discuss at their leisure the several plans submitted, and to consult their convenience, taste and accommodation, in the several details.

The school house, when built or purchased, should never be permitted to remain for any length of time out of repair. It is the duty of the trustees to keep it in repair, and the district should, whenever called upon, provide for the expense. They should also see that the school rooms are properly furnished with fuel, prepared for use; that all the necessary articles of furniture are provided; that the seats, desks, and other fixtures, are in good condition, and that the district library, the apparatus for the school, and all the other property of the district is properly taken care of, and such articles as are wanted, promptly furnished. In other words, the district should exercise a constant supervision over its officers, and provide the means for an efficient discharge of their duties.

When it is supposed that more than four hundred dollars will be necessary to build, hire or purchase a school house, care should be taken to procure the certificate of the town superintendent *before* the tax is voted by the district, as such certificate seems by the act and has been held by this department to be indispensable to authorise the vote. If there be a site and house, they should be sold, and the proceeds applied first to the purchase of the new site, and next to the building. And whatever sum is applicable to the erection or purchase of the school house, must, according to a decision of this department, go in reduction of the amount which the district may vote for a school house. (Decisions, p. 183.) Thus, if the former site and building sell for two hundred dollars, and fifty dollars be applied to the procuring a new site, the remaining 150 dollars being applicable to the new house, the district cannot vote a tax of more than two hundred and fifty dollars for the building, without the consent of the town superintendent.

The following will be a proper form of a resolution for raising a tax for the erection of a school house.

The certificate of the town superintendent of common schools of

the town of        having been obtained, that in his opinion a larger sum than four hundred dollars ought to be raised for building a school house in the said district, namely, the sum of *six hundred dollars*, [or whatever the whole sum may be.]

*Resolved*, That the said sum of six hundred dollars be raised by a tax upon the said district for the purpose of building a school house therein.

The resolution for the purchase of a site should be distinct and may be in the following form:

*Resolved*, That the sum of fifty dollars be raised by tax upon the said district, for the purchase of the site for a new school house, heretofore designated by the legal voters thereof.

Either or both of the above taxes may be raised, but cannot be expended, before a site is purchased and a legal title procured.

Whenever there is a deficiency in the amount of any tax directed to be raised, the inhabitants of the district are directed by section eighty-four, of the act of 1847, (No. 109,) to raise the necessary sum by a new tax.

The following will be the proper form of the resolution for raising a tax, payable by instalments, under § 71, (No. 96.)

The certificate of the town superintendent of the town of        having been obtained, stating that in his opinion a larger sum than four hundred dollars ought to be raised for building a school house in said district, namely the sum of one thousand dollars [or whatever the sum may be,]

*Resolved*, (a majority of all the taxable inhabitants of said district being present, and concurring herein, as appears by the ayes and nays taken of those present;) That the said sum of one thousand dollars be raised by tax upon the said district, to be paid in four equal annual instalments of two hundred and fifty dollars each, for the purpose of building a school house therein.

## TRUSTEES OF SCHOOL DISTRICTS.

### *Their duties and powers.*

These officers are to be chosen by the inhabitants of the district entitled to vote, at their first meeting, and thereafter at any annual

or special meeting legally convened, whenever there is a vacancy, by expiration of their term of office or otherwise. They are to hold their offices "until the annual meeting of such district next following the time of their appointment, and until others shall be elected in their places." § 76, (No. 101.) In case of the existence of a vacancy, by the death, refusal to serve, removal out of the district, or incapacity of the incumbent, unless such vacancy is supplied by a district meeting within one month thereafter, it is the duty of the town superintendent of common schools to appoint some person to supply such vacancy. The expiration of their term of office, also creates a vacancy; and if, for any reason, the annual meeting passes over, without the election of officers, ample provision is made, (see Nos. 91, 92 and 93,) for the calling of a special meeting to supply such vacancy; and in the meantime the old officers hold over, until others are elected in their places, as in such case of vacancy, the town superintendent has no authority to appoint.

By § 79, (No. 104,) "every person duly chosen or appointed to any such office, who without sufficient cause shall refuse to serve therein, shall forfeit the sum of five dollars; and every person so chosen or appointed, and not having refused to accept, who shall neglect to perform the duties of his office, shall forfeit the sum of ten dollars."

By § 80, (No. 105,) "any person chosen or appointed to any such office, may resign the same, by presenting his resignation to the town superintendent of the town where such officer shall reside, who is authorised to accept the same."

By § 6, of the act, (No. 30,) "no town superintendent of a town shall hold the office of trustee of a school district, nor shall a person chosen a trustee, hold the office of district clerk, and no town superintendent shall hold the office of either supervisor or town clerk."

By § 63, act of 1847, "the trustees chosen at the first legal meeting of any school district, shall be divided by lot into three classes, to be numbered one, two and three; the term of office of the first class shall be one year, of the second, two, and of the third, three; and one trustee only shall thereafter annually be elected, who shall hold his office for three years, and until a successor shall be

duly elected or appointed. In case of a vacancy in the office of either of the trustees, during the period for which he or they shall have been respectively elected, the person or persons chosen or appointed to fill such vacancy shall hold the office only for the unexpired term."

This extension of the official term of trustees to three years, combined with the annual choice of one of their number, is regarded as a very important improvement of the system, securing, as it does, uniformity, stability and harmony in the councils of the district, and preventing that ignorance of its previous arrangements and affairs, which has so frequently been found not only to paralyze the exertions of new trustees, but to involve them in pecuniary embarrassment and subject them to personal liability. On the accession of a new trustee, under the present arrangement, he will find two experienced colleagues already in office, conversant with all the affairs of the district, and able and willing to aid and co-operate with him in the discharge of his duties. All the deliberations and actions of the board under this arrangement, will partake of a greater uniformity, and become more systematic. Teachers will be likely to be retained for a longer period: contracts will be likely to be more promptly fulfilled, and taxes and rate bills to be more accurately made out and more speedily collected; and order and harmony will gradually succeed to the chaotic confusion and irregularity which now too generally characterize the records, the councils and the proceedings of trustees, ignorant and careless of their duty, and anxious only to transfer the inextricable embarrassments of their district, unexplained and inexplicable, to their successors.

One important operation of the provision in question, will be to prevent the district from changing the time of its annual meeting, thereby avoiding those frequent misunderstandings as to the period when officers of the district are to be chosen, from which so many profitless and vexatious controversies have arisen.

At this meeting a faithful and strict account of all the affairs of the district, and particularly of its pecuniary engagements and liabilities, should be required of the out-going trustees and other officers. Immediately, or as soon as may be practicable after their election, the new trustees should meet together, and make all necessary and suitable arrangements for the future and permanent administration of the district; the employment and compensation of teachers, both for

the summer and winter school; the necessary repairs of the school-house, for which the district should be requested to provide the requisite funds; the application of the teacher's money to the respective terms; the suitable expenditure of the library money; the condition of the library and other property of the district; the provision of fuel for the winter, and all such other matters as may be found expedient and advisable. They should also see that the district is regularly furnished with the District School Journal, and that it has all the necessary laws, decisions, forms, blanks, account books, &c. &c., to enable them intelligently and systematically to discharge all their duties.

The trustees of each school district are constituted by law the trustees of the library. They are responsible for its preservation and care; and the librarian is subject to their direction, and may at any time be removed by them from office for wilful disobedience of such directions, or for any wilful neglect of duty, or even when they have reason to apprehend the loss of any books, or their injury or destruction by his misconduct. In case of such removal, or of a vacancy from any cause, they are to supply such vacancy by appointment, until the next annual meeting of the district. They are personally liable to their successors for any neglect or omission in relation to the care and superintendence of the library, by which any books therein are lost or injured, to the full amount of such loss or injury, and their action in reference to its management, may be at any time controlled by this department on appeal. Their duties, with reference to the district library, are specifically pointed out in the regulations of the department, made in pursuance of law, and still in force; and they should endeavor strictly and punctually to conform to the spirit of these regulations.

The convenience and accommodation of many, if not of most of the inhabitants of the several districts, would be essentially promoted by placing the charge of the library, temporarily with the teacher, during the term of his or her employment, and depositing it in some convenient and safe place in the school house. This arrangement can only be carried into effect by the concurrence of the trustees and librarian, and under their supervision. Generally, the teacher not being an inhabitant of the district, cannot be chosen librarian. But where the trustees and librarian have sufficient confidence in the teacher and in the safety of the books, when left at the school house, they

will find this arrangement in many respects conducive to the convenience of the district.

Trustees will bear in mind that their annual reports are hereafter to be made and transmitted to the town superintendent, between the first and fifteenth days of January; and that in addition to the matters now required by law to entitle them to their distributive share of teachers' money, they are to report that no school has been taught for more than one month in their district during the past year by any other than a duly qualified teacher.

This reservation of one month is merely nominal, as it is scarcely to be supposed that a teacher not duly qualified, will be employed in any district for that length of time. It was designed to meet those cases where, notwithstanding the utmost diligence on the part of trustees, an examination of the teacher employed by them, cannot be immediately procured; or where, for any reason, it has been found necessary or expedient for the teacher to commence and continue his term for a few weeks without obtaining such certificate. The term of four months must, however, be completed after obtaining such certificate, in order to entitle the district to its share of teachers' money.

It is of great importance to the department, with a view to the statistical information to be laid before the legislature and the people, to be accurately apprized of the comparative attendance upon the schools, on the part of the children residing in the district. For this purpose, earnest efforts have hitherto been made to procure from the trustees of the several districts, a statement of the length of time each pupil has attended, and the number who have attended for one, two, &c., up to ten and twelve months. But notwithstanding every practicable facility to communicate this very desirable information on the part of teachers and trustees, the department has, as yet, found it impossible to procure it with a proper approximation to accuracy. Unwilling to resort to the harsh measure of depriving the districts of their proportion of public money in consequence of this deficiency in their annual reports, the superintendent has hitherto listened to every excuse, for the omission to comply with this requisition, in the reports made heretofore. Hereafter it is hoped no cause of complaint will be permitted to exist in this respect, as the share of public teachers' money will rigidly be withheld where the report is not in all respects in accordance with law, and the requisition of the department

in pursuance of law, unless in cases where the most satisfactory excuse for the omission can be rendered. \* The teacher should, in all cases, be required by the trustees, to keep the necessary register and furnish it, together with his list, at the end of each term.

By the 113th section of the act (No. 138,) it is provided that " whenever the trustees of any school district shall discover any error in a tax list or rate bill, made out by them prior to the expenditure of the amount therein directed to be raised, they may, with the approbation of the state superintendent, after refunding any amount that may have been improperly collected on such tax list or rate bill, if the same shall be required, amend and correct such tax list or rate bill, in conformity to law; and whenever more than one renewal of a warrant for the collection of any tax list or rate bill may become necessary in any district, the trustees may make such further renewal, with the written approbation of the town superintendent of the town in which the school house of said district shall be located, to be endorsed upon such warrant." These provisions preclude the necessity of any application to this department for either of the objects specified in this section, except in special cases, and authorise one renewal of a school district warrant by the trustees, on their own authority and in their discretion: after which the written approbation of the town superintendent must be obtained to any subsequent renewal.

It is strongly recommended to trustees, to exact of the collector the bond required to be given by him, under the 103d section of the school law, whenever any warrant is placed in his hands. This practice will be attended with very little trouble, and will secure the district from all loss, and the trustees themselves from personal liability, in many instances. It will also secure the prompt collection of taxes and rate bills, and promote system and regularity in the financial affairs of the district.

In their orders to the town superintendent for the payment of public money to teachers employed by them, trustees will specify that the person in whose favor the order is drawn, was so employed by them, and was duly qualified according to law.

In the exercise of the power conferred upon the trustees, of exempting indigent inhabitants of their district from the payment of the whole or of portions of their rate bills, the utmost liberality compat-

ible with justice to the districts should be indulged. Nothing can be more at variance with the benign spirit and intent of the school laws than the compulsory distress and sale of articles of absolute necessity to an indigent family for the purpose of satisfying the rate bill for teachers' wages. And yet cases of this kind are frequently brought to the notice of the department. Every reasonable facility should be afforded to the children of the poor, for the attainment of all the blessings and advantages of elementary instruction; and this should never be permitted to become in any degree burdensome to their parents. Where any inhabitant of the district in indigent circumstances cannot meet the rate bill for the payment of the teachers' wages without subjecting himself to serious embarrassment, or his family to sensible deprivation, he should promptly and cheerfully be exonerated. A just feeling of pride may reasonably be expected to preclude any from availing themselves of this exemption, unless under the pressure of absolute necessity; and occasional abuses of the privilege so accorded, are productive of less disastrous results than a prevailing impression among the indigent inhabitants of a district, that their children can partake of the advantages of common school education only at a burdensome charge to themselves, and by a sacrifice of the ordinary necessities and comforts of their families.

*Application of School Money raised by or belonging to a town.*

In the preceding instructions to town superintendents of common schools, (see pages 85, 88,) directions are given them respecting the money which towns are authorised to vote for the support of common schools, in addition to that raised by the supervisors. Some embarrassment has arisen respecting the application of that portion of the money thus raised by a town which may be received from the collector by the trustee or trustees of a joint district, a portion of which is within such town, and the residue is within a town or towns that have not directed a similar additional sum to be raised. It must be supposed that the tax, when voted by a town, is intended for the support of schools therein, as it would be contrary to all principles of equity, that the inhabitants of one town should be obliged to contribute to the education of children belonging to other towns. The superintendent has accordingly decided that when any portion of the money voted by a town, comes to the hands of trustees of joint districts, they must apply it exclusively for the benefit of scholars attending the school who belong to the town thus voting. After ap-

plying the "teachers' money," received from the town superintendent, which was apportioned by the state, and that raised by the supervisors, under the general law, to the payment of the teachers' wages, they are then to apply the portion of the town money received by the trustees, to the payment, as far as it will go, of the amount that is to be collected, by a rate bill, from the parents of the scholars attending school, who belong to the town that raised the additional sum. The rate bill for teachers' wages against the other inhabitants of the district, is to be collected precisely in the same manner as if the additional sum had not been raised.

If there are any other common school funds belonging to the town, arising from their poor moneys, or from their gospel and school lots, any portion of which is received by the trustees of a joint district, they are to apply such portions exclusively for the benefit of the parents of the children attending the school belonging to the town owning such fund. And the trustees should be careful not to apply any part of the money in their hands, coming from the tax voted by a town, or from its common school fund, to the purchase of a library or to any other purpose than the support of the common schools.

#### *Division of Teachers' Money into portions.*

By subdivision nine of section eighty-two, (No. 107,) trustees are authorised to "divide the public moneys received by them, whenever authorised by a vote of their district, into not exceeding two portions for each year; and to assign and apply one of such portions to each term during which a school shall be kept in such district, for the payment of the teachers' wages, during such quarter or term." Where no action is had on the subject by the district, trustees have the right to appropriate the public money in such proportions to the different terms as they may deem expedient. It is not essential that the public money should be paid exclusively for services rendered during the year in which it is received: if the whole amount received be "applied during the year to the payment of the compensation of of qualified teachers," it is immaterial whether such wages were earned wholly during that year, or in part the year previous. It is of frequent occurrence for teachers to commence their term in November or December, and end in the succeeding spring; and there is no impropriety or illegality in paying their wages for the whole term, wholly or in part, from the public money received after its close.

*Account Books.*

Trustees are required by § 104, of the act of 1847, (No. 129,) to keep an account, in a book to be provided for that purpose by them, from time to time, as shall be necessary, of all moneys received and paid out by them in their official capacity; and a statement of all moveable property belonging to the district. This account and statement is to be entered at large, and signed by them, at or before each annual meeting in their district. They should charge themselves on one page, with the whole amount of money received by them, either from the town superintendent, on tax lists or rate bills, specifying particularly the source whence derived, and the time when received; and on the opposite page credit themselves with the respective expenditures and payments, specifying particularly to whom, when paid, and for what purpose, and referring to the proper vouchers on file, whenever practicable. On another page they should make an accurate inventory of all the moveable property belonging to the district, such as the library of the district, stating the number of the volumes and their condition, and giving a catalogue of the books, wherever a general reference cannot properly be made, as to the 1st, 2d, 3d, &c., series of the Harper library, or Nos. 1, 2, 3, &c., of the Harper Library, or Family Library, &c., &c., and the furniture, appendages and apparatus of the school room, specifying each article. The whole to be followed by a certificate in the following form:

We, the subscribers, Trustees of District No.        in the town of Trenton, do hereby certify that the preceding, from page        to page        inclusive, contains a true and accurate account of all the moneys received by us, for the use of said district, and of the expenditure thereof: and a correct statement and inventory of all the moveable property belonging to said district.

Dated this        day of        18       

A. B. }  
C. D. } Trustees.  
E. F. }

*The Calling of Annual and Special Meetings.*

Trustees have power to call special meetings of the inhabitants of their district liable to pay taxes, whenever they shall deem it necessary and proper. This power should be liberally exercised for the

benefit of the district; and special meetings should be called by the trustees, whenever requested for a proper and legitimate purpose, by a respectable number of inhabitants. The trustees should act as a board whenever such meetings are directed to be called; and they or a majority of them, when all have been notified, may require the clerk of the district, either verbally or in writing, to give the necessary notices to the inhabitants. The object of the meeting should, in all cases, be specified in the notice. Where there is no clerk of the district, or he is absent or incapable of acting, any one of the trustees, designated by the board, may give the notices.

Where the time for holding the annual meeting has, for any reason, passed, without the election of officers, provision is made in sections 66, 67, 68, (Nos. 91, 92, 93,) for holding special district meetings for the choice of officers.

### *Assessment and Collection of District Taxes.*

This duty is one of the most difficult and perplexing devolved upon trustees; requiring for its proper and legal exercise, a strict conformity to the statutes in form as well as substance. A careful examination and collation of their various provisions in this respect becomes indispensable. Any departure from the specific directions thus given, is almost sure to subject the trustees to serious personal liability, for which no indemnity is provided, as well as to cause embarrassment and confusion in the affairs of the district generally. In order to enable them to execute this portion of their duties with accuracy and ease, the several steps of the process will be distinctly and particularly pointed out; and such directions given as will, it is hoped, prevent all liability to error in its future performance.

#### *1. General Provisions.*

The general duty of trustees under this head is comprised in the third and fourth subdivisions of section eighty-two, (No. 107,) and is as follows: "to make out a tax list of every district tax voted by any such meeting, (special, annual or adjourned,) containing the names of all the taxable inhabitants residing in the district at the time of making out the list, and the amount of tax payable by each inhabitant set opposite to his name; to annex to such tax list a warrant directed to the collector of the district, for the collection of the sums in such list mentioned.

*2. Tax List, when to be made out.*

By section ninety-nine, (No. 124,) "every district tax shall be assessed, and the tax list thereof be made out by the trustees, within one month after the district meeting in which the tax shall have been voted." The subsequent provisions of this section and section one hundred, (No. 125,) contain modifications of the previous laws, to which the attention of the trustees is requested.

The reason of this provision is obvious. The inhabitants and property of school districts are constantly changing; and where a tax is voted for a specific purpose, it should be assessed only upon those for whose benefit it was voted. While the statute should, therefore, be strictly complied with, whenever it can be, yet if a literal compliance is prevented by accident or unavoidable circumstances, the list may be made out after the expiration of the month or thirty days; as the statute is supposed to be directory, and similar to that in the case of the *People vs. Allen*, 6 Wendell, 486. The regulations of the superintendent, on appeals, have allowed thirty days, within which any person aggrieved, in consequence of the proceedings of any district meeting, may appeal; and, as will hereafter be seen, twenty days' notice is required to be given by the trustees, in case a reduction is claimed, or an original assessment becomes necessary. In the first case, if a copy of the appeal be served prior to the expiration of the month, and before the trustees have made their assessment, the time during which such appeal is pending, is not to be computed as part of the month within which the tax list is to be made out, as the service operates as a stay of all proceedings in any way relating to or consequent upon the act complained of. Still the assessment, when made out, must have reference to the property of the district as it existed at the expiration of the month. In the second case, the trustees must make out their tax list within the month, although they may not be able finally to complete it. They should, however, within the first ten days after the meeting at which the tax is voted, make out their assessment; so that if a reduction is claimed, or an original valuation is found to be necessary, they can give the twenty days' notice required by law, and complete their list by the expiration of the month.

Errors in tax lists and rate bills have often been discovered after they were made out. If discovered within a month from the time the tax was voted, and nothing has been collected, the trustees may

recall them, correct the error, and redeliver them to the collector. But after the expiration of the month, and after any tax had been, in whole or in part collected, they did not, previously to the act of 1839, possess the power of correction. In consequence they were exposed to prosecutions for slight and accidental errors which might have been easily corrected by parties who did not choose to take the more convenient and summary mode of appealing to the Superintendent. This is now effectually remedied by § 113, of the act referred to, (No. 138,) by which trustees may "correct and amend errors in making out any tax list on rate bill, and may refund to any person any sum improperly collected in consequence of such error." By availing themselves of this provision, trustees may now protect themselves from vexatious suits. They need not wait for an appeal by the person complaining, but as soon as they hear of any complaint, they should investigate the case, and if they entertain any doubt, they may apply at once to the Superintendent. They should state all the facts as strongly against themselves as they exist in truth, and should verify their statement by oath. They will then possess the requisite authority to correct the error, if there be one in law or in fact, and to make out a new tax list or rate bill, if the case require it, and also to refund any tax improperly collected.

3. *How, and upon whom to be assessed, and for what property.*

Trustees are required by § 85, of the act of 1847, (No. 110,) to apportion taxes "on all taxable inhabitants of the district, or corporations holding property therein." This provision includes, of course, all actual residents of the district; and is extended by § 87, (No. 112,) to "every person owning or holding any real property within any school district, who shall improve and occupy the same by his agent or servant, whether he resides in the district or not." They are also to apportion taxes "upon all real estate lying within the boundaries of such district, the owners of which shall be non-residents, and which shall be liable to taxation for town or county purposes, and shall be situated within three miles of the site of the school house in such district." This includes uncultivated and unimproved lands, owned by non-residents, and situated in the district; and is an extension of the power given by the old act, which limited the lands of non-residents, subject to taxation, to those which were actually cleared and cultivated. The trustees may, in their discretion, omit to assess any tract or parcel of unoccupied non-resident land in their district, where the proportion of the tax, payable there-

for, would not amount to fifty cents. This provision is inserted to save the trouble of the subsequent proceedings rendered necessary in such cases, where so small a sum only can be finally collected.

The apportionment is also to be made according to the valuations of the taxable property which shall be owned or possessed by them, [the inhabitants of the district, &c., as aforesaid,] at the time of making out such list; within such district, or partly within such district, and partly in an adjoining district.

Taking these provisions together, the following general principles may be deduced:

1. All the actual inhabitants of a district are to be taxed for the whole property, real and personal, owned or held by them within the district. Executors and administrators having in their possession or under their control the property of their testator or intestate, within the district, are taxable therefor, in their representative capacity, as executors, &c.

2. They are also taxable for any real property owned by them, lying partly within such district and partly in an adjoining district; that is, for such property as at the time of making out the tax list is owned by them and intersected by the boundaries of the district. In this respect the old law is not substantially altered. Nor is it in any sense material when the title of the owner to the whole or any part of the land so intersected accrued, whether before or after the organization of the district, so that it belonged to him at the time of making out the tax list, and is then intersected by the boundaries of such district. In such case, no matter what may be the respective proportions of the land owned in each district; the owner is taxable for the whole farm or property belonging to him, and so connected, in the district where he resides, only; and being so liable there, he cannot, of course, be taxed for the same property in any other district.

3. All non-resident owners of real estate in the district, who improve and occupy the same by their agents or servants, are by § 87 (No. 112,) taxable therein for the property so owned, improved and occupied, in the same manner as though they actually resided therein. This provision is also to be construed in connexion with those above referred to, and is applicable in its full extent only to cases

where the property so occupied is wholly situated in the district. Where it is situated partly in the district where the owner actually resides, it is taxable only in that district. And where it is situated partly in two or more districts, in neither of which the owner resides, each district must tax such owner only for the part actually within its boundaries. It is also to be borne in mind, that this class of cases is distinct from that in which the land is occupied by a tenant, and also from that in which it is so occupied by a person working it under a contract for a share of the produce of such land. In each of these cases the actual possessor is to be taxed in the same manner as though he were the owner. See § 86, (No. 111 ante,) and § 88, (No. 113.)

4. All real estate situate in a district, within three miles of the school house therein, and owned by non-residents, not included in either of the above class of cases, is also liable to taxation, and forms the subject of the directions contained in § 89 to 95 inclusive, in the act of 1847, (Nos. 114, 120, both inclusive.)

5. Land in the district belonging to corporations, whether cultivated or not, is taxable for school district purposes. The provision in the act in this respect, produces a material alteration of the law as it formerly stood, and renders turnpike and railroad corporations taxable for so much of the land owned by them as is situated within the respective school districts through which their roads pass. Such corporations, and all others, are to be regarded as residents of the districts where their principal place of carrying on business is situated, and non-residents elsewhere. The mode of proceeding where they are non-residents is specifically pointed out by § 89, of the act (No. 114,) and the subsequent sections.

*Proceedings in case of unoccupied and unimproved non-resident lands.*

When any real estate within a district liable to taxation is unoccupied, the trustees at the time of making out their tax list, are required by § 89, (No. 114,) whenever they impose a tax on such property, "to make and insert in such tax list, a statement and description of every such lot, piece or parcel of land, so owned by non-residents therein, in the same manner as required by law from town assessors in making out the assessment rolls of their towns." If the tax is returned by the collector unpaid, upon receiving from him an

account thereof, with the descriptions of the property as directed to be made and the amount of the tax, together with an affidavit of the fact of non-payment, and of due diligence used for the collection, the trustees are to credit him with the amount, § 90, (No. 115,) to compare the account so rendered with the original tax list, certify to its accuracy, and transmit it, together with the collector's affidavit and their certificate to the county treasurer, § 91, (No. 116,) who is to pay the amount so returned out of any moneys in the treasury raised for contingent expenses. § 92, (No. 117.) Such county treasurer is to lay the account, affidavit and certificate before the board of supervisors, who are to cause the amount of such unpaid taxes, with seven per cent. in addition, to be levied on the lands of the respective non-residents liable to pay the same; which amount when collected, is to be returned to the county treasury, to reimburse the amount so advanced, with the expense of collection. § 93, (No. 118.) Any person whose lands are included in any such account, may pay the tax assessed thereon to the county treasurer, at any time before the board of supervisors shall have directed the same to be levied. § 94, (No. 119.) The same proceedings are to be had for the collection of the amount so directed to be raised by the board of supervisors, as are provided by law in relation to taxes on non-resident lands generally; and upon a return to the comptroller of the arrears uncollected, the amount is to be paid on his warrant to the county treasurer, and the state is to collect the same in the manner prescribed by law in respect to arrears of county taxes upon lands of non-residents. § 95, (No. 120.)

To enable trustees the better to perform the duties thus devolving upon them, that portion of the Revised Statutes referred to in § 89, (No. 114,) and which is applicable, is hereto annexed:

“§ 11. The lands of non-residents shall be designated in the same assessment roll, but in a part thereof separate from the other assessments, and in the manner prescribed in the two following sections.

“§ 12. If the land to be assessed, be a tract which is subdivided into lots, or be part of a tract which is so subdivided, the assessors shall proceed as follows:

“1. They shall designate it by its name, if known by one, or if it be not distinguished by a name, or the name be unknown, they shall state by what other lands it is bounded:

“ 2. If they can obtain correct information of the subdivisions they shall put down in their assessment rolls, and in a first column, all the unoccupied lots in their town or ward, owned by non-residents, by their numbers alone and without the names of their owners, beginning at the lowest number and proceeding in numerical order to the highest:

“ 3. In a second column, and opposite to the number of each lot, they shall set down the quantity of land therein, liable to taxation:

“ 4. In a third column, and opposite to the quantity, they shall set down the valuation of such quantity:

“ 5. If such quantity be a full lot, it shall be designated by the number alone; if it be a part of a lot, the part must be designated by boundaries, or in some other way, by which it may be known.

“ § 13. If the land so to be assessed, be a tract which is not subdivided, or if its subdivisions cannot be ascertained by the assessors, they shall proceed as follows:

“ 1. They shall enter in their roll the name or boundaries thereof, as above directed, and certify in the roll that such tract is not subdivided, or that they cannot obtain correct information of the subdivisions, as the case may be:

“ 2. They shall set down in the proper column, the quantity and valuation as above directed:

“ 3. If the quantity to be assessed be the whole tract, such a description by its name or boundaries will be sufficient; but if a part only is liable to taxation, that part or the part not liable, must be particularly described:

“ 4. If any part of such tract be settled and occupied by a resident of the town or ward, the assessor shall except such part from their assessment of the whole tract, and shall assess it as other occupied lands are assessed.”

The residue of the sections relates to the making of a map which is supposed not to be applicable to trustees of school districts; if a map is already on file, the trustees might refer to it in aid of their descriptions.

4. *Valuations of property, how ascertained, and mode of proceeding when reduction is claimed.*

The valuations of taxable property are to be ascertained as far as possible from the last assessment roll of the town, and no person is entitled to any reduction in the valuation so ascertained, unless he gives notice of his claim to such reduction, to the trustees of the district before the tax list shall be made out. § 96, (No. 121.)

The assessment roll of the town when signed and certified according to the provisions of the 26th section of title 2, chap. 13, 1 Revised Statutes, is to be deemed the last assessment roll of the town. By § 27, of the same title, this roll is to be delivered to the supervisor of the town on or before the first day of September in each year, to be by him delivered to the board of supervisors at their next meeting.

According to the opinion of the supreme court, in 7 Wendell, 89, the roll is then to be deemed completed, so that the trustees may use it as the basis of their tax list. It is true, that it may afterwards be altered by the board of supervisors, by increasing or diminishing the aggregate valuation of real estate of the town to make it correspond with that of other towns. But it is obvious this will not affect the proportion between the inhabitants of of the same town, so that an assessment apportioned on either roll would be the same, so far as the real estate is concerned. Should the proportions be varied when real and personal estates are assessed to the same person, yet under the decisions referred to, the tax list made out upon the assessment roll as completed by the assessors before any variation made by the supervisors would be valid. If any change is made by them, a subsequent tax list should vary also in the same particulars. Generally, the roll completed by the assessors will be a guide, but the trustees cannot be safe without recurring to the roll after its correction by the supervisors, as it has been held by the supreme court in the case above referred to, and in other cases, that if the tax list is made upon an assessment roll that is not the last valid one, the trustees will be personally liable.

The question is often raised, how far, and to what extent, the last assessment roll of the town is to be followed in the valuations of trustees in levying taxes. It is to be adopted as the sole guide, where a valuation has actually been made by the assessors on property, the condition of which remains substantially the same. But where im-

provements have been made on real estate which has thereby actually been enhanced in value since the last assessment roll was completed, or where any material change has occurred in the situation of the property, it is obvious that the last assessment roll ceases to be a standard of valuation. So, where an inhabitant acquires or parts with personal property, since the assessment roll was made out. And it is to be recollected that trustees are bound to follow the last assessment roll as far as possible, only with a reference to the valuations of property. Where it has changed hands, they are to put the assessment to the present owner, adopting the valuation of the town assessors. Where for instance one inhabitant sells his farm to another, the trustees in levying a tax are to assess the farm to the vendee, at the valuation of the town assessors, where no substantial improvement enhancing its value has occurred in the mean time, reducing if the circumstances require it, the valuation of his personal property, by the amount paid or secured to be paid as consideration money of the purchase, and increasing by the same amount, the valuation of the personal estate of the vendor. In either of these cases however, as an original valuation of the trustees in part would become necessary, the proceedings prescribed by § 97, (No. 122,) would be requisite. But where a mere exchange of real estate is effected, no change in the valuations should be made, unless in the cases above specified, of substantial improvements or alterations, the names of the respective persons liable, only, requiring to be changed.

Where a reduction is duly claimed, and where, for any reason, the valuation of taxable property cannot be ascertained from the last assessment roll of the town, the trustees are required by § 97, (No. 122,) to "ascertain the true value of the property to be taxed from the best evidence in their power; giving notice to the persons interested, and proceeding in the same manner as the town assessors are required by law to proceed in the valuation of taxable property." The proceedings to be had in such cases are specifically and particularly pointed out in the extract from the Revised Statutes relating to the assessment of taxes, pages 123 and 124 ante, to which the attention of the trustees is referred. Substituting the word "trustees" for "assessors," wherever it occurs, the directions there given will afford a perfect guide in all proceedings under section 97. It has been decided by the Superintendent, p. 319, Decisions, &c. that the notice may be given by posting it in three public places. It is to be given in all cases of variation from the town assessment roll.

5. *Tax for building School-House.*

By § 98, (No. 123,) the trustees in assessing a tax for building a schoolhouse, are to exempt any person set off to their district without his consent, from any other district, within four years preceding the assessment of such tax, who shall have actually paid within that period, in the district from which he was taken under a lawful assessment therein, a district tax for the same purpose. The burden of proof in this case undoubtedly rests with the persons claiming the exemption, as the trustees can have no official knowledge of the fact.

6. *When taxes may be imposed by trustees without being specifically voted.*

By § 109, of the act of 1847, (No. 134,) "When the trustees of any school district are required or authorised by law, or by vote of their district, to incur any expense for such district, and when any expenses incurred by them, are made by express provision of law a charge upon such district, they may raise the amount thereof by tax in the same manner as if the definite sum to be raised had been voted by a district meeting, and the same shall be collected and paid over in the same manner."

By § 104, (No. 129,) the trustees are required to purchase two blank books for the purpose specified in that section, and by sub. 7, of § 62, (No. 87,) a book is to be provided for recording the proceedings of the district. The trustees will be justified in imposing a tax, or adding to the amount of any voted by the district, for the expense of these books.

They are also to impose a tax for the deficiency of teachers' wages, occasioned by the exemption of indigent pupils, as explained in the remarks on that subject.

7. *Form of a District Tax List to raise any tax voted or charged on a district, and of a warrant for its collection.*

List of taxes apportioned by the trustees of district No. —, in the town of Trenton, on the taxable inhabitants of said district, and corporations holding property therein, and upon real estate lying within the boundaries of such district, the owners of which are non-residents thereof, for the purpose of raising the sum of — laid and charged on the said district, according to law.

| Names of inhabitants and corporations.                                  | Amount of taxes. |
|-------------------------------------------------------------------------|------------------|
| James Thomas, .....                                                     | \$6 00           |
| The President, Directors, and Company of<br>the Bank of Utica, .....    | 60 00            |
| James Thomas, executor of the estate of<br>John Thomas, deceased, ..... | 50 00            |

*Statement and description of unoccupied and unimproved lands of non-residents of said district, upon which a tax has been imposed as above stated.*

| No. and description of lots and parts<br>of lots.                                                                                                                            | Quantity of<br>land there-<br>in liable to<br>taxation. | Valuation of<br>such quantity. | Amount of<br>tax. |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|--------------------------------|-------------------|
| No. 17, .....                                                                                                                                                                | 10 acres.                                               | \$25 00                        | \$0 75            |
| Southwest quarter of lot No. 23, ...                                                                                                                                         | 2½ do                                                   | 6 00                           | 0 50              |
| Tract not subdivided, .....                                                                                                                                                  | 5 do                                                    | 10 00                          | 0 62½             |
| or                                                                                                                                                                           |                                                         |                                |                   |
| Tract, the subdivision of which can-<br>not be ascertained, bounded north<br>by lot No. 17, south by north line<br>of A. B., east by lot 15, and west<br>by town line, ..... | do                                                      | do                             | do                |

To the collector of school district No.      in the town of Trenton, in the county of Oneida:

You are hereby commanded to collect from each of the taxable inhabitants and corporations named in the foregoing list, and of the owners of the real estate described therein, the several sums mentioned in the last column of the said list, opposite to the persons and corporations so named, and to the several tracts of land so described, together with five cents on each dollar thereof for your fees: and in case any person upon whom such tax is imposed, shall neglect or refuse to pay the same, you are to levy the same by distress and sale of the goods and chattels of the person or corporation so taxed, in the same manner as on warrants issued by the board of supervisors to the collectors of towns; and you are to make a return of this warrant within thirty days after the delivering thereof to you; and within that time to pay over all moneys collected by virtue hereof to the trustees of the said district, some or one of them; and if

any tax on the real estate of a non-resident mentioned in the said list shall be unpaid at the time when you are required to return this warrant, you are to deliver to the trustees of the said district an account thereof, according to law.

Given under our hands this      day of      in the year one thousand eight hundred and forty      .

A. B. }  
C. D. } Trustees.  
E. F. }

It is not necessary for the trustees to affix their seals to any warrant.

### 8 *Renewal of Warrants.*

By § 112 (No. 137,) the trustees are expressly authorized to renew a warrant against any delinquent person once; but in analogy to a decision of the supreme court, relating to warrants for the collection of town and county taxes, it has been supposed that a warrant issued by trustees of school districts could not be renewed more than once. This has been remedied by the § 113 (No. 138.) They may now be renewed as often as may be necessary, with the approbation of the town superintendent, but not otherwise. Applications for such approbation must state the facts and circumstances, and the reason why the warrant has not been collected, and must be verified by oath. Such renewal may be in the following form, endorsed on the warrant:

We hereby renew the within warrant, with the approbation of the town superintendent of common schools, this      day of      184      .

A. B. }  
C. D. } Trustees.  
E. F. }

## IV. Duties of Trustees in relation to the purchase, custody and sale of school houses and sites, the repair of such houses, and furnishing them with necessary fuel and appendages.

### 1. *Purchase and custody of school houses.*

By sub. 5, of § 82, (No. 107,) trustees of school districts are vested with full and ample powers for carrying out the vote of the district, for the procurement of a site and building, by hiring or pur-

chasing, and for furnishing and repairing the school house; and by sub. 6, of the same section, they are "to have the custody and safe keeping of the district school houses."

Questions have frequently arisen, as to the extent of the power conferred by this last subdivision; and to what uses the school house should be confined by the trustees.

The general principle in relation to questions of this nature arising in the several school districts, is this: that it is the duty of the trustees to exercise such a general supervision over the care and management of the district school house, as that the instruction of pupils in the school shall not be embarrassed by any use of the house other than for school purposes; and that the property of the district, and the furniture, books, and papers belonging to the school, or the pupils shall not be injured or destroyed. Any use of the house in subordination to these restrictions, and not inconsistent with the main purposes for which it was designed, must be left to the determination and pleasure of those to whom it belongs, whose wishes and directions in this respect, the trustees are bound to carry out. The school house is the property of the district and subject to its control, within the limitations of the law. The purpose for which it was erected must be pursued, and nothing can be suffered to interfere with that. Upon this principle, and subject to the restrictions and limitation referred to, it may be used out of school hours, and when not wanted for any district purpose, for religious meetings, Sunday schools, lectures, debating societies, or any other moral, literary or useful purpose, with the approbation of a majority of the district and the consent of the trustees, or any two of them.

## *2. Sale of School House and Site.*

A very important branch of the duties incumbent upon trustees, is that which relates to the disposition of the school house and site, when no longer required for district purposes. By § 74, (No. 99f) the inhabitants of the district are authorized, whenever the site of the school house has been legally changed, to direct the sale of the former site, together with the buildings and appurtenances, or any part thereof, at such price, and upon such terms as they shall deem most advantageous to the district. In this the trustees act merely as

the ministerial officers of the district, and are bound to carry out the directions of the inhabitants. They are to execute the necessary conveyances to the purchaser; and when a credit is directed to be given for any portion of the consideration money, they are to take, in their corporate name, such security, by bond and mortgage or otherwise, as they may think proper; to hold the same as a corporation, and account to their successors; and they are also authorized, in their name of office to sue for and recover the moneys due and unpaid upon any security so taken by them, or their predecessors, with interest and costs. They are by § 75, of the same act, (No. 100,) to apply the moneys arising from such sale to the expenses incurred in procuring a new site, and in removing or erecting a school house, so far as such application shall be necessary.

By § 50, (No. 75.) "Whenever two or more districts or parts of districts shall be united, and there shall be more than one school house in such new or altered district, the trustees of such district may sell the site and buildings thereon, of either or both the school houses situated in such new district."

### 3. *Modes of providing Fuel.*

There are three modes of providing fuel for the use of school districts. 1st. By a specific tax for that purpose, to be voted by the inhabitants: 2d. Where this mode is not adopted, the trustees are directed by § 107, (No. 132,) to determine the proportion which every person sending children to school shall be liable to provide, according to the number sent by each, exempting indigent persons: and 3d. "If any person liable to provide such fuel, shall omit to provide the same, on notice from any one of such trustees, it shall be the duty of the trustees to furnish such fuel, and to charge the person so in default, the value of or amount paid for the fuel furnished," § 108, (No. 133,) and to add such amount to his rate-bill, or prosecute for and collect the same: § 108, (No. 133.)

Trustees should see that the respective proportions of fuel are promptly furnished by the inhabitants, or the amount due, on neglect, promptly collected.

The statute uses the term "fuel," which imports wood or other material in a state fit for use. The trustees should not receive large or green logs, which require splitting or cutting; but should require the wood to be adapted to the fire place or stove. Unless this is done by those who are to furnish the fuel, there are no means of having

it prepared. It cannot be said to be the duty of the teacher or of the pupils, to cut or split, or in any way to prepare the materials sent for use. Great inconvenience has been frequently experienced from the omission to supply proper fuel, and the schools have often been dismissed in consequence.

## V. The employment of teachers and their payment, and the making out and collecting of rate bills.

### 1. *Contracts with Teachers.*

By subdivision 7 of § 82, (No. 107,) trustees are "to contract with and employ all teachers in the district."

The most fruitful source of difficulty in school districts, and of applications to the superintendent, has been the looseness and irregularity with which these contracts have been made. In some districts the trustees have agreed to pay the teacher the whole amount of public money that should be received, be it more or less. This is unjust to the teacher or the district, and has almost always led to contention. The agreement should be to pay him a specific sum by the month or by the quarter, adequate to the value of his services. If the public money is not sufficient, the deficiency should be supplied by a rate bill. It is not to be believed that any intelligent citizen will consider that sordidness to be economy which prefers that their children should be brought up in ignorance, or instructed in error, rather than contribute the mere trifle which will secure them an education, at least sound and accurate, as far it goes. When the rewards which other professions and avocations hold out to talent, knowledge and industry, are so liberal, how can it be expected that persons, competent to the great business of instruction, should devote themselves to it for a compensation inadequate to their support?

If the public money should be more than sufficient to remunerate the teacher, the trustees should consider whether they may not establish another school or distinct department. A large amount of public money indicates a large number of children over five and under sixteen, and of course there will be the materials for a large school, or for more than one, especially if they are of a character to command respect and inspire confidence.

It is strongly recommended that wherever it shall be practicable,

there be a separate school for boys under the charge of a male teacher, and another for girls under a female.

Should there be a surplus of public money after paying a fair and just equivalent to the teachers who can be usefully employed, the district will always be relieved from the consequences of not expending the whole, upon application to the superintendent.

A practice prevails to some extent, of contracting with teachers that they shall collect the rate bill, or the sum that may be deficient after applying the public money. This is wholly illegal, and is sure to involve trustees and teachers in difficulty. The deficiency must be collected by the trustees, by warrant, annexed to a rate bill, and delivered to the collector. The superintendent has constantly refused to interfere in all cases where any arrangement for the collection of teachers' wages, other than that prescribed by law has been made; and he will steadily continue such refusal. The expression in subdivision 8<sup>o</sup> of § 82, (No. 107,) "excepting such sums as may have been collected by the teachers," implies that they may collect their wages. But this can apply only to the case of voluntary payment, and does not justify trustees in abandoning the means of collection provided by law.

Another practice requires notice. It is that of trustees engaging with a teacher that he shall board with the parent of the children alternately. There is no authority for such a contract, and it cannot be enforced on the inhabitants. This compulsory boarding gives occasion to constant altercation and complaint, which often terminates in breaking up the school. The best arrangement is to give the teacher a specific sum and let him board himself. But there are some districts so destitute that it may afford the inhabitants considerable relief to be permitted to board the teacher. In such cases the object can be obtained in another way. Let the trustees contract with the teacher at a specific sum per month, or by the quarter, and they then agree with him, that if he shall be afforded satisfactory board at the house of any of the inhabitants, he will allow whatever sum may be agreed on per week for such board, to be applied to his wages, and will give an order on the trustees for the amount, to the person with whom he boards; and the trustees may then accept such order from the inhabitants, as payment to that extent upon his tuition bill, and deduct it from the amount to be paid the teacher, after having paid him the whole of the public money.

It is strongly recommended that all contracts with teachers be made in writing, and a duplicate kept by each party. In no other way can justice be done to the parties in case of any dispute.

The power of the trustees to contract with and employ teachers, cannot be controlled by the inhabitants: although it should never be exercised unless under very peculiar circumstances, in opposition to the known wishes of a decided majority of the district.

## 2. *Mode of Paying Teachers.*

This is specifically provided for by § 82, (No. 107,) above referred to. By subdivision eight, the trustees are "to pay the wages of such teachers, when qualified, out of the moneys which shall come into their hands from town superintendents of common schools, so far as such moneys shall be sufficient for that purpose; and to collect the residue of such wages, excepting such sums as may have been collected by the teachers, from all persons liable therefor."

By subdivisions nine, ten, eleven, twelve, thirteen and fourteen, they are,

"To divide the public moneys received by them, whenever authorised by a vote of their district, into not exceeding two portions for each year, to assign and apply one of such portions to each term during which a school shall be kept in such district, for the payment of the teachers' wages during such quarter or term; and to collect the residue of such wages, not paid by the proportion of public money allotted for that purpose, from the persons liable therefor, as above provided.

"To exempt from the payment of wages of teachers, either wholly or in part, such indigent persons within the district as they shall think proper, in any one quarter or term, and the same shall be a charge upon such district:

"To certify such exemptions, and deliver the certificate thereof, to the clerk of the district, to be kept on file in his office:

"To ascertain, by examination of the school lists kept by such teachers, the number of days for which each person not so exempted, shall be liable to pay for instruction, and the amount payable by each person:

"To make out a rate bill containing the name of each person so liable, and the amount for which he is liable, and to annex thereto a warrant for the collection thereof; and

"To deliver such rate bill, with the warrant annexed, to the collector of the district, as directed by subdivision 14, of § 82 (No. 107,) and § 83, (No. 108.)

By § 84, of the same act, (No. 109,) "where by reason of the inability to collect any tax or rate bill, there shall be a deficiency in the amount raised, the inhabitants of the district, in district meeting, shall direct the raising of a sufficient sum to supply such deficiency, by tax, or the same shall be collected by rate bill, as the case may require."

In accordance with these several provisions, trustees of districts in making out their rate bills, will hereafter proceed as follows:

1. They will first ascertain the amount due to the teacher, under his contract, for the first quarter's services.

2. They will then apply so much of the public money as is applicable to the term, in diminution of such amount.

3. They will assess the balance upon each inhabitant who has sent to the school during the term, (including indigent persons) according to the number of children and of days sent by each, as appears by the verified list kept by the teacher, under the 104th section of the aforesaid act. (No. 129.)

4. They will then proceed to exempt, either wholly or in part, such indigent inhabitants as they may think proper for the payment of their proportion of such assessment, and certify the whole amount of such exemptions, and deliver the certificate thereof to the clerk of the district, to be kept by him.

5. They will then make out a rate bill against those exempted in part, for the balance remaining after such partial exemption, and against those not exempted either wholly or in part, for the collection of the amounts assessed against them respectively, and add their warrant, in the usual manner. Such warrants need not be under seal, and may be executed by the collector "in any other district or town, in the same manner, and with the like authority, as in the district for which he was chosen or appointed." (No. 128.)

6. The trustees will collect the amount of exemptions, as certified by them, by a tax, which they are authorised to impose by the 109th section (No. 134,) upon all the taxable inhabitants of the district, "in the same manner as if the definite sum to be raised had been voted by a district meeting." They may immediately proceed to impose this tax; or they may add the amount to any tax thereafter imposed for district purposes, as may be most convenient.

Trustees should exercise a liberal discretion in making exemptions in behalf of indigent inhabitants, so that the charge for tuition shall in no case be burdensome: while on the other hand, they should never allow the consideration of the trifling amount of the general tax for such exemption when levied upon the whole taxable property of the district, to tempt them into an unnecessary exercise of the powers confided to them.

To illustrate this proceeding more fully, let us apply the several steps necessary to be taken in ordinary cases. Suppose a teacher employed for the usual term of four months at \$20 per month. The public money, including local funds, belonging to the district, and applicable to the term, either by the decision of a district meeting, as above specified, or by the determination of the trustees, is \$40: the amount due the teacher for his quarter's services is of course \$80, of which the trustees pay him \$40 at once, from the public money, and take his receipt therefor. They then call upon him for his list, kept and verified according to the provisions of § 104, (No. 129,) and after having ascertained from such list, the number of days' attendance for which each person sending to school is liable, they will proceed to assess the respective proportions of the remaining \$40, from each, according to the whole number of days and children sent. Thus if one inhabitant has sent four children for 104 days, he will be charged for 416 days, and so on. Suppose upon adding up the whole number of days thus ascertained, the total is found to be 4,000, for the average attendance of 40 scholars for the whole term: the proportion of \$40 due for one scholar for each day, would be one cent: and this multiplied by the number of days each scholar attended, would give his proportion: and by adding the proportions of each belonging to the same family, the amount due from each person sending to school is ascertained. The trustees then make out an assessment in the following form:

*Form of Assessment.*

Assessment containing the name of each person liable for teachers' wages in district No.      in the town of Trenton, for the term ending on the      day of      184      , and the amount for which each person is liable.

| Names of inhabitants sending to school. | Whole No. of days sent. | Amount of school bill. |
|-----------------------------------------|-------------------------|------------------------|
| John Jackson, ..... .                   | 104                     | \$1 04                 |
| James Johnson, ..... .                  | 416                     | 4 16                   |
| Timothy Warner, ..... .                 | 312                     | 3 12                   |
| Peter Barney, ..... .                   | 50                      | 50                     |
| Solomon Kinney, ..... .                 | 54                      | 54                     |
| William Jones, ..... .                  | 416                     | 4 16                   |
| John Dye, ..... .                       | 104                     | 1 04                   |
| William Johnson, ..... .                | 104                     | 1 04                   |
| Thomas Jones, ..... .                   | 520                     | 5 20                   |
| John Radcliff, ..... .                  | 520                     | 5 20                   |
| James Tunicliff, ..... .                | 520                     | 5 20                   |
| John Simons, ..... .                    | 520                     | 5 20                   |
| Joseph Williams, ..... .                | 360                     | 3 60                   |
|                                         | 3,120                   | \$40 00                |

The assessment should be signed by the trustees and filed with the district clerk.

The next step is to exempt such indigent persons as the trustees may think proper, from the payment of the sums set opposite to their names, either wholly or in part. Suppose Peter Barney to be exempted wholly, and Thomas Jones and John Radcliff each from the payment of one-half the amounts assessed to them; the trustees will first make out a certificate, to be filed with the clerk of the district in the following form:

*3. Certificate of exemption.*

We, the undersigned, trustees of District No.      in the town of Trenton, do certify, that we have this day exempted Peter Barney from the payment of any share of the wages of the teacher employed in said district for the term ending on the      day of      18      and Thomas Jones and John Radcliff each from the payment of one half the amount assessed to them respectively, as their share of such wages.

Dated this      day of      18     

A. B. }  
C. D. } Trustees.  
E. F. }

They will then proceed to make out their rate bill and warrant in the following manner:

*Form of Rate Bill and Warrant.*

Rate bill, containing the name of each person liable for teachers' wages, in District No.        in the town of Trenton, for the term ending on the        day of        184        and the amount for which each person not exempted, either wholly or in part, from the payment of such amount, is so liable, with the fees of the collector thereon.

| Names inhabitants sending to school. | Whole number of days sent. | Amount of school bill. |                      |
|--------------------------------------|----------------------------|------------------------|----------------------|
| John Jackson, .....                  | 104                        | \$1 04                 |                      |
| James Johnson, .....                 | 416                        | 4 16                   |                      |
| Timothy Warner, .....                | 312                        | 3 12                   |                      |
| Solomon Kinney, .....                | 54                         | 0 54                   |                      |
| William Jones, .....                 | 416                        | 4 16                   | Paid to teacher.     |
| John Dye, .....                      | 104                        | 1 04                   |                      |
| William Johnson, .....               | 104                        | 1 04                   | \$3 paid to teacher. |
| Thomas Jones, .....                  | 520                        | 2 60                   |                      |
| John Radcliff, .....                 | 520                        | 2 60                   |                      |
| James Tunicliff, .....               | 520                        | 5 20                   |                      |
| John Simon, .....                    | 520                        | 5 20                   |                      |
| Joseph Williams, .....               | 360                        | 3 60                   |                      |
|                                      | 3,070                      | 36 90                  |                      |

To the Collector of School District No.        in the town of Trenton, in the county of Oneida.

You are hereby commanded to collect from each of the persons in the annexed rate bill named, the several sums mentioned in the last column thereof, with five per cent for your fees, excepting such sums as may have been collected by the teacher or paid to the trustees; and within thirty days after receiving this warrant to pay the amount so collected by you, into the hands of the trustees of said district, or one of them; and in case any person therein named shall neglect or

refuse to pay the amount set opposite his name as aforesaid, you are to levy the same by distress and sale of the goods and chattels of such person.

Given under our hands, this            day of            in the year  
of Lord one thousand eight hundred and

A. B. }  
C. D. } Trustees.  
E. F. }

There will still remain \$3.10 of the amount due the teacher for his wages, being the amount of exemptions by the trustees; and this sum must be levied by tax on all the taxable inhabitants of the district and corporations holding property therein, in the same manner as though such amount had been actually voted by the district to be raised. If the teacher can wait upon the district, or the trustees choose to advance the money in its behalf, the amount may be added to the next tax that may be voted for district purposes. It should, however, be assessed within a reasonable time; and wherever the amount of exemptions is sufficient to warrant an immediate assessment, it should at once be levied. The trustees must exercise a sound discretion in this respect, with reference to the amount to be raised, and the probability of an early opportunity to add it to some district tax.

Any inhabitant of the district liable for the payment of teachers' wages, may pay his proportion to the trustees, at any time before the expiration of thirty days after the rate bill is actually made out; and such payment exempts him, to the extent so paid from the operation of the rate bill. The language of the 8th subdivision of § 82, (No. 107.) recognizes the right of collection on the part of the teacher; although, as before remarked, its exercise is, as a general rule, inexpedient. Where any portion of his bill is thus collected by the teacher or trustees, the amount, and the name of the inhabitant paying it, should be noted by the trustees on the rate bill and the amount so paid must be allowed to the credit of the person paying it. But the whole sum for which the rate bill and preliminary assessment is made out, is not to be varied by the fact of such payment; credit only is to be given for the amount paid to the teacher and trustees, in the rate bill; as otherwise by diminishing the sum to be raised by the amount so paid, a double assessment on the person paying, would be the consequence.

## VI. Annual Reports of Trustees

1. *When Annual Reports of Trustees are to be made.*

The statute, § 115, (No. 140,) requires that trustees shall make their annual reports, between the first and fifteenth days of January in each year, and transmit the same to the town superintendents. The report includes the transactions of the year ending the last day of the preceding December. If the trustees make their reports at an early day, the town superintendent will have time to examine them and return them for correction, when found defective.

If a report does not show a compliance with the law, the town superintendent cannot apportion to the district a share of the school moneys; and if the presentation of the report is delayed until the day of the apportionment, no time will be left for returning it to the trustees, and the district will lose its public money, leaving only the remote contingency of showing a case which will justify the superintendent of Common Schools in allowing the loss to be made up at the next year's apportionment. Even if his interposition is obtained, great inconvenience and embarrassment are inevitable, through the loss of the public money one year, and the receipt of a double portion the next.

When trustees go out of office between the last of December and fifteenth of January following, they should promptly make out their report before the expiration of the term of office, and deliver it to their successors. This will save them and their successors much trouble, and will much facilitate their receipt of the public money.

By § 145, (No. 173,) trustees of school districts will perceive that a penalty of ten dollars is imposed for refusing or wilfully neglecting to make any report; or to perform any other duty required by law or by the regulations or decisions of the superintendent, made under the authority of any statute; and they are referred to the foregoing instructions to supervisors, for the views of the superintendent respecting the execution of this provision. They are also liable to a penalty of \$25, and to be deemed guilty of a misdemeanor, for signing a false report, with intent to procure a greater share of public money than the just proportion of their district. § 123, (No. 148.)

*2. Report, what to contain.*

In addition to the particulars required by § 116, (No. 141,) trustees are to state such other information in relation to the schools as the superintendent may require.

By virtue of the authority conferred on the superintendent, by the same section, they are also hereby required, hereafter to state in their annual reports,

1. The number of books belonging to their district library on the last day of December in each year:

2. The number of times the school in their district has been inspected and visited by the town superintendent during the year reported:

3. the names of the several school books in use in the school in their district during such year:

4. The number of pupils who have attended the school in said district for a term less than two months, during the said year; the number attending two and less than four months; the number attending four and less than six months; the number attending six and less than eight months; the number attending eight and less than ten months; the number attending ten and less than twelve months; and the number attending twelve months;

5. The number of select and private schools in their district, other than incorporated seminaries, and the average number of pupils attending them during the preceding year.

6. The number of colored children between the ages of five and sixteen years, attending any school for such children established in the district, and instructed therein at least four months by a teacher duly licensed, specifying the number attending from different districts, designating such districts, and the number from each, the amount of public money received from the town superintendents for such schools during the year ending with the date of their report, and the amount paid for the compensation of such teacher, over and above the public money so received,

One of the most important items in the annual report of trustees, is the number of children residing in the district between the ages of five and sixteen, as it affords the most sure and practical test of the progress of primary education. There is reason to believe as has heretofore been remarked, in the instructions to town superintendents, (see page ante,) that the reports have been very inaccurate in this respect. Some difficulty has, it is true, been experienced in determining with the requisite precision, the children proper to be included within the boundaries of the several districts; but the specific provisions of the late act, § 118, (No. 143,) will, it is believed, remove every difficulty of this kind. By that section it is required that the reports shall include all children over five and under sixteen, who, at the date of the report, are actually in the district, composing part of the family of their employers, residing at the time in the district, although such residence—that is, of the employers, parents, &c., be temporary. But children belonging to the family of a person who is an inhabitant of another district, are not to be included. If, therefore, a person who is not an inhabitant of some other district, resides temporarily in a given district, all the children belonging to his family are to be reported. The law embraces a class of persons who were not before enumerated in any district:—those whose parents or employers had not gained a residence in the state.

## VII. Trustees accounting to their Successors, paying over balances and delivering papers to them.

When the term of office of the trustees expires, after the annual distribution is made, and before the first day of January, their successors are often put to great and unnecessary trouble to obtain the information indispensable to enable them to make their annual reports. They are, by law, [section 125, No. 150,] required to render an account in writing, “of all moneys received, and the manner in which the same was expended.” Even this is too often neglected, and the succeeding trustees are unable to state that the public money has been applied to a qualified teacher, and of course the district loses its money. Trustees guilty of such neglect, not only subject themselves to a penalty of ten dollars, but are liable also, individually, for the amount of money thereby lost to the district. As they are now required, by § 104 of the act of 1847, (see No. 129,) to keep a book in which they are to enter all moneys received and paid by them, and all moveable property belonging to the district, there

can be no difficulty in complying with the law respecting the rendering their accounts.

But the rendering of full accounts of money received and expended, is not sufficient to enable succeeding trustees to perform their duties, or to make out their reports. They cannot collect money that may be due a teacher, without knowing what scholars have attended the school and how many days. They cannot raise the means of paying for fuel or other lawful expenses, without knowing what expenses have been incurred and remain unpaid. To reach this evil, the following regulation is hereby established:

Whenever trustees of school districts go out of office, they shall, in addition to the account they are required by law to render to their successors, furnish them with:

1. A written statement of all contracts entered into by them, remaining unpaid, in whole or in part, whether made with teachers or any other person, the amount paid by them on such contracts, and the sum remaining due:

2. If there be any sum due from parents, or for which they are liable for the tuition of their children, the trustees shall furnish their successors a list of the scholars who attended school during the time such liability accrued, and the number of days they respectively attended:

3. Unless they go out of office on the 1st day of January, in any year, they shall also furnish their successors with a written statement of the time a school has been kept in the district since the 1st of January, by a teacher who has received the certificate required by law, naming such teacher:

4. And whenever they go out of office during a term of the school not then ended, they shall furnish a similar statement, of the time a school has been kept, by whom, and the names of the scholars attending during such term, with the number of days of their attendance respectively:

5. They are also to deliver over the book of "Common School Decisions and Laws," the instructions and circulars they may have received from the superintendent, the catalogue of the district library, and all other papers and documents relating to their office, and they are to furnish all information to their successors, as to any official act or duty, that may be required by them.

## VIII. Suits by and against Trustees.

1. *Suits by Trustees.*

By § 74, (No. 99,) trustees are authorized to sue for and recover the moneys due upon any security taken by them, or their predecessors in office, on the sale of the school-house and site of their district, and in the cases provided for by that section, with interest and costs.

By § 108, (No. 133,) the trustees are authorised to sue for and recover the value of, or amount paid for the proportion of fuel which any inhabitant of the district shall neglect to provide, on notice, together with costs of suit.

By § 112, (No. 137,) trustees are authorized to prosecute for the amount due on a tax list or rate bill, against non-residents of their district, where no goods or chattels can be found in the district whereon to levy.

By § 114, (No. 139,) they are directed, in case the moneys apportioned to their district are withheld, to prosecute for the recovery thereof, with interest, against the officer in whose hands the same shall be, or to pursue such other remedy for the recovery thereof, as is or shall be given by law. This provision, it is supposed, is applicable only to cases of illegal detention in the hands of the town superintendent, of money apportioned to a district, and not to the withholding of such money in consequence of the discovery of some illegality or informality in the reports from the districts. Where the right of the district to its share is incontestible, and the amount is still withheld for any reason, the trustees are directed to prosecute; and the proper remedy in such a case, would be an action of assumpsit for money had and received to the use of the district against such town superintendent.

By § 128, (No. 153,) trustees are directed to prosecute their predecessors for the recovery of the forfeiture of \$25, incurred by a refusal or neglect to account, or to pay over any balance due from them, on the expiration of their term of office, and to apply the money recovered to the use and benefit of their school; and by § 129, (No. 154,) in connection with § 29, (No. 54,) they are authorized to prosecute for any unpaid balance in the hands of a former trustee, or his representatives, and directed to apply the amount recovered to the use of the district, in the same manner as if they had been paid without suit.

By § 102, (No. 127,) they are also authorised to prosecute for the recovery, with interest and costs, of all forfeitures incurred by a collector, and unpaid balances in his hands, and to apply the moneys recovered in the same manner as if paid without suit.

By § 61, (No. 86,) trustees are to prosecute for the recovery of the fine of ten dollars, with costs of suit, imposed upon any inhabitant voting at any school district meeting without being qualified.

## 2. Suits against Trustees.

It is conceived that an essential service may be rendered to officers connected with common schools, by informing them of some general principles to show the extent of their liability to suits by individuals.

Officers required by law to exercise their judgments are not answerable for mistakes of law, or mere errors of judgment, without any fraud or malice. *Jenkins vs. Waldron*, 11th Johnson's Reports, 114.

A public officer who is required by law to act in certain cases, according to his judgment or opinion, and subject to penalties for his neglect, is not liable to a party for an omission arising from a mistake, or want of skill, if acting in good faith. *Seaman vs. Patten*, 2nd Caine's Reports, 312.

But an officer entrusted by the common law or by statute is liable to an action for negligence in the performance of his trust, or for fraud or neglect in the execution of his office. *Jenner vs. Joliffe*, 9 Johnson's Report, 381.

And an officer who commands an act to be done by issuing a warrant or other process, if he act without jurisdiction of the subject matter, or of the person, is liable as a trespasser. *Horton vs. Auchmordy*, 7 Wendell, 200. But if he have jurisdiction, errors in judgment do not subject him to action.

Mere irregularities in proceedings will not render an officer, having discretionary powers or acting as a judge, liable to a civil suit. There is a large class of cases, in which the remedy is only by plea to the proceedings or by writ of error. See *Butler vs. Potter*, 17 Johns. 145, and *Griffin vs. Mitchell*, 2 Cowen's Reports, 548.

The collector or other officer who executes process, has peculiar protection. He is protected, although the court or officer issuing such process, have not in fact jurisdiction of the case; if on the face of the process it appears that such court or officer had jurisdiction of the subject matter, and nothing appears in such process to apprise the officer but that there was jurisdiction of the person of the party affected by the process. *Savacool vs. Boughton*, 5 Wendell's Reports, 170.

A contract made by all the trustees, and signed by two, is binding; and where a contract is signed, or a warrant issued by two trustees, the presence of the third will be presumed, until the contrary be shown. Two trustees can contract against the will of the third, if he was duly notified of a meeting of the trustees, or was consulted and refused to act. *McCoy vs. Courtree*, 9 Wendell, 17.

Where a district votes a tax to purchase a new site and build a school house thereon, where the consent of the town superintendent had not been obtained for a change of the site, (the district not being an altered one) the trustees are liable in trespass for making out a tax list and issuing a warrant for the collection of such tax, on the ground that the district had no authority to vote such tax. *Baker vs. Freeman*, 9 Wendell 36.

Trustees are not liable as trespassers for omitting to insert the names of all the taxable inhabitants in the tax list, where there is no evidence of bad faith on their part. *Easton vs. Calendar*, 11 Wendell, 90.

Subordinate tribunals are not liable as trespassers for acts done growing out of an error of judgment. *Ib.*

Trustees are liable in trespass for making out their tax list upon any other basis than the last assessment roll of the town, after it has been reviewed and finally settled by the assessors. *Alexander vs. Hoyt*, 7 Wendell, 89.

Inhabitants of a district must vote a precise and definite sum, as a tax for building a school-house, or any other purpose, and trustees will not be authorised to issue their warrant, to levy a tax under a general vote. *Robinson vs. Dodge*, 18 Johns. 351.

Trustees in office are liable on the contracts of their predecessors for the employment of teachers, personally, because they have the means of indemnifying themselves, and those who made the contract are not liable after the expiration of their term of office. *Silver vs. Cummings*, 7 Wendell, 181.

The court intimate a distinction between those cases where the trustees are not to act unless money is previously raised, and those where it is to be collected subsequent to the performance of the work. In the first class of cases they are not to incur responsibilities beyond the means in their possession; they render themselves personally responsible, and their successors are not holden. The first class of cases would seem to include those only which are specified in sub. 5, § 82, (No. 107) and those in which blank books, maps, globes, black boards, and other school apparatus may be procured by means of a previous tax. In these cases successors are supposed not to be liable, unless money comes into their hands for the purpose.

In all other cases, it is supposed successors are liable on the contract of their predecessors.

It is quite important to trustees to know that the decisions of this department have been, uniformly, that their costs in any suit cannot be paid by a vote of the district to levy a tax for that purpose; as the only purposes for which a tax can be voted are specified in the statutes, and this is not among them.

By section 108, of Title 4, Ch. 8, Part 3, Rev. Stat. p. 476, vol. 2, 1st edition, [§ 112, p. 390, 2d edition, vol. 2,] it is provided that in suits against trustees of school districts and other officers, "the debt, damages or costs recovered against them shall be collected in the same manner as against individuals and the amount so collected shall be allowed to them in their official accounts." It is presumed that this provision does not relate to actions for personal delinquencies, but to those only which arise out of an official duty. As the recoveries are to be "allowed them in their accounts," it is implied that they may retain the amount of moneys in their hands, and set off the sums recovered. But this cannot apply to the public school moneys paid to them for the purpose of employing teachers, as those moneys are specifically appropriated by law to that purpose, and cannot be diverted to any other.

The provision of § 146, of the act 1847, (No. 174,) abundantly protects trustees, and all other officers from costs, in places where

they act in good faith ; especially as they have now the means of correcting any error in any tax list or rate bill, by application to the superintendent.

Questions respecting the liabilities of trustees for their joint acts, and for the acts of each other, are frequently presented. It becomes proper to state the grounds and limits of their responsibility in this respect, that they may be better enabled to guard against its consequences.

The object being to secure fidelity to the trust and to prevent negligence and fraud, the rules which govern in the cases of executors, guardians and other private trustees, must be applicable to officers holding a similar fiduciary relation to the public, and therefore the principles which have been settled in those cases by the courts, will be the guide in determining the extent of their liability.

The general rule, as laid down by an eminent jurist, (Story on Equity Jurisprudence,) and sustained by the adjudged cases, is, that joint trustees are responsible only for their own acts, and not for the acts of each other, unless they have made some agreement by which they have expressly agreed to be bound for each other ; or have, by their voluntary co-operation or connivance, enabled the other to accomplish an object in violation of the trust. This rule is exemplified in the following cases.

1. Where money has been received jointly, all are in general liable for its application, and a joint receipt is presumptive evidence of the fact that it came to the hands of all ; but either may show that his joining in the receipt was formal or necessary, and that the whole of the money was in fact received by his companions. And if it was misapplied before there was a reasonable opportunity to control it, he would not be responsible.

2. When by any positive act, direction or agreement of one joint trustee, the money is paid over and comes to the hands of the others, when it might and should have been otherwise controlled or secured by both, then each will be chargeable for the whole.

There is great difficulty in applying this rule to the case of trustees of common schools. The money for distribution cannot be in the hands of more than one ; there are ordinarily no means of insur-

ing a control over it by all, by depositing it in a bank or other place of security, and I know of no authority by which any two trustees could require the third to give security for its faithful disbursement. One has as much right to its custody as another. The simple fact, therefore, that public money has been received by one and misapplied, cannot in itself render the others liable.

It would seem that there should be some act of omission or commission on the part of the others to render them liable for the misconduct of their associate ; and here the following rule seems better adapted to the case.

3. If one trustee wrongfully suffer the other to detain the trust money a long time in his own hands without security, or should lend it to him on his simple note, or should join with the other in lending it on insufficient security, in all such cases he would be held liable for any loss. Of course, a trustee who has connived at or been privy to an embezzlement of the trust money would be liable. And if it be mutually agreed between them that one shall have the exclusive management of one part of the trust property, and the other of another part, both would be liable for the acts of each.

Considering the equal rights and powers of each trustee, that the law has made no provision for requiring security from them, and the gross injustice of making an officer responsible for the misconduct of an associate over whom he has no control, they ought not to be held liable for each other's acts, unless there be some evidence of participation or connivance, like those specified in the third class of cases above mentioned.

### 1. *Schools for Colored Children.*

By § 147, (No. 184,) a school for colored children may be established in any district, with the approbation of the town superintendent, which is to be under the charge of the trustees of the district in which such school is established. Trustees in their annual reports are also required particularly to specify the number of such children over five and under sixteen years of age, attending such school from different districts, naming such districts respectively, and the number from each attending for four months, and instructed by a duly qualified teacher, which report is to form the basis of an apportionment to such school of a share of the public money.

The provisions contained in this section are more particularly applicable to those cities and large villages where no special legal provisions have been made for the instruction of colored children. The means provided are, it is true, altogether insufficient to meet the expense which must necessarily be incurred in the organization of these schools; and inasmuch as the class of community for whose special benefit they are intended are generally unable to contribute to such expense in any considerable degree, the object in view can seldom be fully attained, but through the efforts of charitable and benevolent individuals in the several districts, from which the colored schools are composed. These efforts have, hitherto, been paralyzed from the absence of any legal power to effect the necessary organization; and the provision now made was, doubtless, intended to supply that defect, and to furnish a nucleus around which the benevolent exertions of the friends of education and humanity might be concentrated. If, however, in any of the country districts a colored school can be organized and efficiently kept up for the requisite length of time, it is hoped no efforts will be spared to carry into effect the provisions of the section. Colored children are entitled equally with all others, to the privileges and advantages of the district school; and wherever they can be grouped together in a separate school, under the charge of a competent teacher, they will be far more likely to derive the full benefits of such instruction as may be best adapted to their circumstances and condition, while at the same time, the disadvantages inseparable from their attendance at the district school, will be avoided.

## *2. Bond to be required of the Collector.*

Trustees are authorised by § 103, (No. 128,) to require of the collector of their district, before delivering to him any warrant for the collection of moneys, to execute a bond to them, in their corporate name, with one or more sureties, to be approved by one or more of their number, in double the amount to be collected, conditioned for the due and faithful execution of the duties of his office; and in case any collector shall not execute such bond within the time allowed him by the trustees for that purpose, which shall not be less than ten days, his office is vacated, and the trustees are authorised to appoint any other person residing in the district as collector in his place.

### *Form of a Bond to be given by a District Collector.*

Know all men by these presents, that we, A. B. and C. D., (the collector and his surety,) are held and firmly bound to E. F. and G.

H., &c., trustees of school district number        in the town of        in the sum of (here insert a sum double the amount to be collected) to be paid to the said E. F. and G. H., &c., trustees as aforesaid, or to the survivor or survivors of them, or their successors: to the which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, firmly by these presents. Sealed with our seals, and dated this        day of        18        &c.

Whereas the above bounden A. B. has been chosen (or appointed, as the case may be,) collector of the above mentioned school district number        in the town of       , in conformity to the Statutes relating to common schools; now, therefore, the condition of this obligation is such that if he, the said A. B., shall well and truly collect and pay over the moneys assessed upon the taxable inhabitants of said district, in a rate bill or tax list, (as the case may be,) dated the        day of        and this day received by the said collector, which assessment amounts to a total sum of        dollars and        cents, and shall, in all respects, duly and faithfully execute the said warrant, and all the duties of his office as collector of such district, then this obligation shall be void, otherwise to be in full force and virtue.

A. B. [L. s.]  
C. D. [L. s.]

Signed, sealed and delivered }  
in the presence of }

### 3. *Applications to the Superintendent for School or Library Money, withheld by Town Superintendents.*

There are two classes of cases in which relief may be sought for the refusal of town superintendents to apportion or pay over public money to a district.

1st. Where it is supposed the decision of the town superintendent is erroneous upon some question of fact, or some principle of law. In such cases the remedy is by appeal to the county superintendent, in the manner prescribed by the regulations concerning appeals. The interest of the district, as well as of other districts, requires that the proceedings should be prompt, as an appeal stays further action by the town superintendent.

2d. Where there has been any accidental omission to comply with any provision of law, or any regulation of the Superintendent, in consequence of which an apportionment of public money has not been made. In such cases a general authority is given by § 14, (No. 39,) to cause the apportionment to be made, and a similar authority is

given in relation to library money, by the last clause of § 142, (No. 167.)

These provisions are intended only for the cases of accidental and unintentional omissions, and the authority given by them will not be exercised, where there is a wilful disobedience of law, or a perverse and intended violation of any regulation.

Application for relief in this class of cases, must be made as soon as the omission is discovered, in order to prevent the inconvenience of correcting the apportionment after it has been acted upon; and any unnecessary delay will, in itself, form a strong ground of declining to grant the relief desired.

The facts and circumstances on which the application is founded, must be verified by affidavit, and a copy should be served on the town superintendent, and his concurrence in the statement of the facts should, if possible, be obtained.

Whenever the money to which such an application refers, remains in the hands of the town superintendent at the time he receives notice of the application he should retain it, subject to the order of the superintendent. The inconvenience of a second distribution in the event of an application being denied, is not sufficient to counterbalance that of a district being deprived for a year of its portion of public money.

But town superintendents should recollect that neither the provisions referred to, nor any others, authorize them to exercise any discretion whatever in such cases. Their duty is simply to execute the law. If the necessary reports are not made at the proper time, or do not contain all that is required by law or by regulations, they cannot make any apportionments or pay any money upon them. Their duty is to refer the case to the Superintendent, and suspend any action on their part in relation to the share of money affected by the omission, until his directions are received.

## INSTRUCTIONS TO TEACHERS.

By § 104, (No. 129) the trustees of each district are to provide a book, in which the teachers are to enter the names of the scholars attending school, and the number of days they shall have respectively attended, and also the number of times the school shall have been inspected by the town superintendent. This list is to be verified by the oath of the teacher.

The strict and faithful performance of this duty is highly important, not only to the district but to the teacher. It is the basis upon which the rate bills are to be made out, and by which the sums to be paid by parents are to be ascertained. Error in these lists will therefore produce injustice. It has been held by this department, that the teacher is not entitled to call on the trustees for his wages, unless he furnishes them an accurate list of scholars, on which they can prepare the rate bills, and issue their warrant. Hence the teacher has a direct personal interest in the preservation of an accurate list, which he can verify by his oath.

For the purpose of executing this provision, the teacher will write the following heading or caption, in his book, at the commencement of each quarter:

A list of the scholars who attended the district school of district No.            in the town of            during the quarter or term commencing the            day of            184    , and the number of days they respectively attended the same.

| Time of entrance.  | Name of scholar.   | No. of days' attendance. |
|--------------------|--------------------|--------------------------|
| No. 1, 1841, ..... | John Thompson, ..  | Seventy-eight, 78 days.  |
| Dec. 1, " .....    | Peter Barker, .... | Forty-three, 43 "        |
| Dec. 4, " .....    | James Thomas, ...  | Forty, 40 "              |

At the time any pupil enters the schools, the teacher should immediately insert the date and the name of the scholar. At the close of the quarter the whole number of days that each pupil attended, is to be ascertained from the check roll, and entered in the third column, in words at length, and also in figures, as in the above form.

Each teacher at the commencement of every quarter must provide a day or check roll, in which the name of every scholar is to be entered. It should be ruled so as to give six columns, corresponding to the number of days in the week. The number attending should be ascertained each half day, and pencil marks made in the column for the day opposite to the name of each one present. At the end of the week, the number of days each pupil has attended during the week, should be summed up and entered on the weekly roll. Each half days' attendance should be noted, and two half days should be reckoned as one day. The pencil marks on the day roll may be obliterated, so that the same roll may be used during the quarter. The weekly roll should be formed in the same manner, so as to contain the names of the pupils, and thirteen columns ruled, corresponding to the number of weeks in the quarter. In each of these columns is to be entered the result of the daily check roll for each week in the following form:

*Weekly Roll.*

Attendance of pupils in district school of district No.

| Names of pupils. | 1st week. | 2d week. | 3d week. | 4th week. | 5th week. |
|------------------|-----------|----------|----------|-----------|-----------|
| John Thompson,   | 6 days.   | 4 days.  | 5 days.  | 6 days.   | 5½ days.  |

At the end of the quarter, the teacher will sum up the attendances of each pupil from this weekly roll, and enter the result in the book provided by the trustees as before mentioned, showing the whole number of days each scholar has attended during the quarter.

At the end of the list the following oath or affirmation is to be written.

A. B. being duly sworn, (or affirmed) deposes that the foregoing is a true and accurate list of the names of the scholars who attended the district school of district No.                      in the town of                      during the quarter commencing the                      day of                      184                      , and the number of days they respectively attended.

This oath or affirmation is to be signed by the teacher, and certified by a justice of the peace, commissioner of deeds, judge of any court of record, or county clerk, to have been taken before him.

The teachers are also required to make an abstract of the lists for the use of the trustees, at the end of each quarter; showing the results exhibited under the following heads, and in the following form:

Abstract of the attendances of scholars at the district school of district No.                      in the town of                      during the quarter commencing the                      day of                      184 .

Of scholars who attended less than two months, there were

Of scholars who attended two months and less than four,

“                      “                      four months and less than six,

“                      “                      six months and less than eight,

“                      “                      eight months and less than ten,

“                      “                      ten months and less than twelve,

“                      “                      twelve months.

This abstract is to be signed by the teacher and delivered to the trustees.

In another part of the book provided by the trustees, and towards the end of it, the teacher will enter the days on which the school has been inspected, in the form of a memorandum, as follows:

*Account of Inspections of the School in District No. .*

November 1, 1841. The school was inspected by *William Jones* town superintendent.

December 1, 1841. The school was inspected.

To this also, an oath or affirmation of the correctness must be added in the following form:

A. B. being duly sworn (or affirmed,) deposes that the foregoing is a true account of the days on which the school in District No.                      , in the town of                      , was visited and inspected by the town superintendents respectively, during the quarter commencing on the                      day of                      184 .

*Teacher.*

Sworn (or affirmed) and subscribed this }  
day of                      184 before me. }

## DISTRICT CLERK.

The general duties of this officer are particularly specified in § 81, (No. 106.) He is to keep in a book, to be provided by the district, a record of the proceedings of each annual and special meeting held in his district; to give notice of the time, place and object of such meetings in the manner prescribed by law; and to preserve all records, books and papers relating to the district, and deliver the same, on the expiration of his official term, to his successor.

By § 66, (No. 91) he is to notify a special meeting for the election of officers, whenever the time for holding the annual meeting has passed, without such election being held; and generally it is his duty to give the necessary legal notices of a district meeting, whenever required to do so by a majority of the trustees. The purpose and object of such meetings should in all cases be set forth in general terms; and this is specially required by law when a meeting is called for the purpose of changing the site and removing the school house in an unaltered district. [See Nos. 89, 98.] And also when a tax is to be levied for the purchase of books for a district library. [See No. 158.]

By § 69, (No. 94) it is declared that "the proceedings of no district meeting, annual or special, shall be held illegal for want of a due notice to all the persons qualified to vote thereat, unless it shall appear that the omission to give such notice was wilful and fraudulent." But this provision will not exonerate a clerk from liability for gross neglect; nor will it sanction an intentional omission to give notice.

Notices of annual and special meetings must be given at least five days before the day on which such meetings are directed to be held; that is, the notices for the meeting to be held on Saturday for instance, must be given on or before the preceding Monday.

In the case of annual meetings, or special meetings, which have been adjourned for a longer time than one month, a notice in writing, affixed in at least four different places in the district, is sufficient; but notices of special meetings must be personally served on each inhabitant of the district liable to pay taxes, (which includes, of course, every legal voter in the district) "by reading the notice

in the hearing of such inhabitant, or in case of his absence from home, by leaving a copy thereof, or of so much thereof as relates to the time and place of such meeting, at the place of his abode." § 55, (No. 80.)

*Form of notice for Annual Meeting.*

Notice is hereby given, that the annual meeting for the election of officers in district No.        in the town of       , and for the transaction of such other business as the meeting may deem necessary, will be held at the school house in said district on Monday, the        day of        at 6 o'clock, P. M.

Dated this        day of       

A. B. District Clerk.

*Form of Notice for an adjourned District Meeting, to be posted up in four public places in the District.*

**SCHOOL DISTRICT NOTICE.**

Notice is hereby given, that a meeting of the freeholders and inhabitants of school district, No.        in the town of        authorized by law to vote therein, will be held at        on the        day of        next, (or instant, as the case may be,) at        o'clock in the        noon, pursuant to adjournment.

Dated this        day of        A. D. 18       

A. B. District Clerk.

*Form of Notice for a Special District Meeting.*

To the Clerk of district number       

The Trustees of district number        at a meeting held for the purpose, have resolved that a special meeting be called at the school house, on the        day of        18        at        o'clock in the        noon of that day, for the purpose of [choosing a collector in the place of A. B. removed or whatever the object of the meeting may be,] and for the transaction of such other business as the meeting may deem necessary.

You will therefore notify each inhabitant of the district entitled to vote therein, by reading this notice in his hearing, or if he is absent from home, by leaving a copy of it, or so much as relates to the time and place of meeting, at the place of his abode, at least five days before such meeting.

Dated at        this        day of        18       

A. B. }  
C. D. } Trustees.  
&c. }

The district clerk of each school district in the State, is hereby required within ten days after each annual or special meeting for the election of officers in his district, to forward to the town clerk the names of the several officers elected at such meeting, and the offices to which they were respectively elected.

In pursuance of section thirty-second, of the act of 1841, (No. ) the District School Journal will hereafter be forwarded by mail, for the clerk of each district by the number of said district, whose duty it is, by that section, to cause each volume to be bound at the expense of the district, and to deposite the same in the District Library. He or one of the trustees is therefore bound to take the paper from the post-office, punctually, paying the postage quarterly in advance; and the amount so paid, being an expenditure authorised by law, may be added by the trustees to any tax list thereafter made out for district purposes, and refunded to the clerk or trustee paying it. Great care should be taken to secure the regular receipt, and careful preservation of the numbers, which will be sent on the 1st of each month; and with this view, the clerk should stitch them together in covers, as soon as they arrive; and in no case permit them to be taken out of his custody, although any inhabitant of the district should be allowed free access to them, for the purpose of perusal, at all proper hours. The same precaution should be observed, and the same freedom of access and perusal allowed, in respect to the present volume of Laws and Instructions, the volume of Common School Decisions and Laws heretofore published, and all other books, papers and documents belonging to the district, and placed under his official control.

They will observe that heavy penalties and forfeitures are incurred by them, under section 145 of the act of 1847, (No. 173,) for neglect of any duty devolved upon them by law; and that they are made individually responsible for any loss that may accrue to their district, in consequence of such neglect or omission.

For an exposition of the duties devolving on them in relation to the district library, their attention is directed to the subsequent instructions under that head; and for the manner in which records of the proceedings of the several school meetings should be kept, to the subsequent instructions under the head of Annual and Special Meetings.

## COLLECTORS OF SCHOOL DISTRICTS.

It is the duty of the collector of each district "to collect and pay over to the trustees of his district, some or one of them, all moneys which he shall be required by law to collect, within the time limited by such warrant for its return, and to take the receipt of such trustee or trustees, for such payment." § 100, (No. 125.)

When required by the trustees, such collector is to execute a bond, with one or more sureties, to be approved by one or more of the trustees, in double the amount for any tax list, (or rate bill,) to be collected, and conditioned for the due and faithful performance of his duty. § 103, (No. 128.)

In case such bond is not executed within the time allowed by the trustees for that purpose, which shall not be less than ten days, the office of the collector is vacated, and the trustees may appoint any other person to supply the vacancy.

The form of the bond thus required to be executed, will be found at page 149.

*1. Jurisdiction of the Collector.*

By § 103, (No. 128,) the jurisdiction of the collector, in the execution of his warrant, is unlimited; and extends to any other district or town, "in the same manner and with the like authority, as in the district for which he was chosen or appointed."

*2. Mode of proceeding in the collection of taxes and rate bills.*

This is specifically pointed out by the extracts from the 13th chapter of the 1st volume of the Revised Statutes, page 82.

*3. What property liable to be taken on Collector's Warrants.*

In the case of *Keeler and others vs. Chichester*, 13 Wendell, 629, the supreme court held "that any property found in the possession of the person liable to pay the tax, might be taken and applied to the payment of such tax, and that the collectors of school districts had the same powers as collectors of towns in collecting town and county taxes. This decision has reference to the ownership of the property, and shows that possession renders it liable to distress, whe-

ther owned by the party or not. It does not refer to the kind of property liable. The property which may be levied upon is specifically defined by section 2, of chapter 13, 1 Revised Statutes. No property is exempt from the operation of such warrants, except the arms and accoutrements particularly mentioned in the act of Congress referred to, and quoted in the note at the bottom of page 82.

The designation of the owner of a farm in a tax list and warrant, as "the widow and heirs of A. B. deceased," is a sufficient compliance with the statute, to justify the collector in executing the warrant. *Wheeler vs. Anthony*, 10 Wendell, 346.

By §101, (No. 126,) the collector forfeits to his district, the full amount of any money which may be lost by his neglect, and which might have been collected by him within the time limited in his warrant.

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### DISTRICT LIBRARIES.

By § 133, (No. 158,) the inhabitants of the several school districts are authorized, when lawfully assembled at any district meeting specially notified for that purpose, to impose a tax not exceeding ten dollars in any one year, "for the purchase of a district library consisting of such books as they shall in their district meeting direct, and such further sum as they may deem necessary for the purchase of a book case." By the 134th section of that act, (No. 159,) the district clerk, or such other person as the inhabitants should designate and appoint by a majority of votes, is declared to be librarian, and to be vested with the care and custody of the library, under such regulations as *the inhabitants* should adopt.

These provisions afford the only authority for raising *by tax upon the district*, any money for the purchase of books, or a book case. The books thus to be purchased must be directed *by the inhabitants* in district meeting; and this direction may be either general, as to purchase any given series or numbers of the Harper Library, the Family Library, &c. or special, designating the particular books, or the trustees may be authorized to procure such books as they think proper.

By § 136, (No. 161,) the sum of fifty-five thousand dollars, together with an equal sum to be raised in the towns, and directed to be distributed to the several school districts of this state, by the fourth section of chapter two hundred and thirty-seven, of the laws of eighteen hundred and thirty-eight, shall continue to be applied to the purchase of books for a district library, until otherwise directed ; but whenever the number of volumes in the district library of any district, numbering over fifty children between the ages of five and sixteen years, shall exceed one hundred and twenty-five ; or of any district numbering fifty children or less, between the said ages, shall exceed one hundred volumes, the inhabitants of the district qualified to vote therein, may, at a special or annual meeting duly notified for that purpose, by a majority of votes, appropriate the whole, or any part of the library money belonging to the district for the current year, to the purchase of maps, globes, black-boards, or other scientific apparatus, for the use of the school : And in every district having the required number of volumes in the district library, and the maps, globes, black-boards, and other apparatus aforesaid, the said moneys, with the approbation of the state superintendent, may be applied to the payment of teachers' wages.

*Trustees*, are by this provision, authorized to make the selection of the books for the library, as the application of the money is to be made by them. To promote uniformity in the loan and return of books, it is recommended that but one librarian be appointed ; and that the inhabitants *adopt* the rules and regulations hereinafter prescribed by the superintendent, for the government of the libraries procured under both acts.

Inhabitants of districts have no authority to sell, exchange, or in any manner dispose of the books constituting the district library ; whether such books are purchased from the library fund, or from the funds raised by the district.

By § 139, (No. 164,) the Superintendent of Common Schools, is directed to prepare general regulations for the preservation of the libraries, the delivering of them by librarians and trustees to their successors in office, and respecting the use of the books, &c. In pursuance of these provisions, the subjoined regulations have been prepared. No. I. relates to the preservation of the libraries, the delivery of the books by the officers charged with their keeping, to their successors, and their duties in respect to them. No. II. relates to the use of the books by the inhabitants, the number to be taken out, the fines to be imposed, &c.

As these regulations may appear minute to some, it is proper to remark, that they were intended for the organization of a new and entire system, upon a subject not well understood, and in which directions cannot be too full or too plain. Thousands upon thousands of our citizens are and will be charged with the duties to which these regulations refer, and it is by no means a depreciation of their intelligence to remark, that very many of them have probably never had any connexion with circulating libraries, and are not aware of the absolute necessity of strict rules, and a firm adherence to them, to prevent the total destruction of their books in a few years. Complaints had already been made that in several districts, which had procured libraries, many of the books were injured, and others lost, for the want of some system in their management. It cannot be too strongly impressed upon trustees and librarians, that the best system which human ingenuity can devise, will be of no avail unless it is fully and thoroughly executed. These invaluable store houses of knowledge,—the solace of age, the guide of youth, the stay of manhood, the source of so much happiness to parents and their children,—will depend for their existence upon the vigilance of those who have accepted the sacred trust of watching and preserving them. Heavy, indeed, will be the responsibility for a neglect of those duties upon which so much depends.

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## DISTRICT LIBRARY REGULATIONS, No. I.

*Regulations respecting District Libraries, their preservation, and the delivery of them to Librarians and Trustees to their successors in office ; pursuant to § 139 of the act intended for the government of the officers having charge of such Libraries.*

I. In respect to the selection of books for district libraries. The Superintendent has no authority to make such selections, unless requested by the trustees of a district pursuant to a vote of its inhabitants. He is prepared to act on the subject as prescribed by the statute, whenever requested ; but he desires it to be distinctly understood that he does not proffer his services ; much preferring that the inhabitants of a district should consult their own tastes and judgment. At the same time, he is bound to see the law faithfully executed ;

and as jurisdiction upon appeal from the proceedings of district meetings and trustees, as well in relation to the selection of a library as to all other matters connected with it, is given to him by law, it is proper that the principles which will govern decisions on such appeals should be known.

The object of the law for procuring district libraries is, to diffuse information, not only, or even chiefly, among children or minors, but among adults and those who have finished their common school education. The books, therefore, should be such as will be useful for circulation among the inhabitants generally. They should not be children's books, or of a juvenile character, or light and frivolous tales and romances ; but works conveying solid information which will excite a thirst for knowledge, and also gratify it, as far as such a library can. Works imbued with party politics and those of a sectarian character, or of hostility to the christian religion, should on no account be admitted ; and if any are accidentally received, they should be immediately removed. Still less can any district be permitted to purchase school books, such as spelling books, grammars or any others of the description used as text books in schools. Such an application of the public money would be an utter violation of the law. If any case of improper selection of books should come before the Superintendent, by appeal from any inhabitant, such selection would be set aside ; and if it appeared from the reports, which according to these regulations must be made, that such books had been purchased, the town superintendents will be bound to withhold the next year's library money from such district. These penalties and provisions will be rigidly enforced ; for upon a faithful administration of the law, the usefulness and the continuance of the system will depend. If the public munificence be abused, it will unquestionably cease.

The superintendent feels it to be his duty, although an unpleasant one, to caution districts against collections of frivolous works, some of which are already advertised as district libraries. The advice of persons familiar with the best works in our language should be taken in making purchases ; and it is recommended that *utility* be consulted in the choice of books rather than novelty. Works already known, and whose worth has been approved by the judgment of the public, should be preferred to new productions, which have not attained a character. Economy, also, should be maintained in buying libraries, that the utmost benefit may be derived from the

library fund. Those publishers who print large editions and make calculations for forming complete libraries, can, and do afford their books much cheaper than others. With such opportunities for procuring the very best books at a cheap rate, it would be lamentable if more money should be paid for them than they can be procured for with a little effort, and it would be humiliating and discouraging, if books of worthless or improper character should be offered to those who hunger for knowledge.

II. The library is in charge of the librarian chosen at the *annual* meeting of the district ; for he cannot be chosen at a special meeting. If none is elected, the clerk of the district becomes librarian. Where by the laws regulating schools in cities or particular places, no trustees are chosen by the inhabitants, the district clerk, if there be one, is librarian. If there be no district clerk, the trustees of the district may appoint the librarian.

Trustees of school districts, are by virtue of their office, trustees of the library, and have the general charge and superintendence of it. The librarian is subject to their directions in all matters relating to the preservation of the books and appurtenances of the library, and he may be removed by them for the causes and under the circumstances mentioned in 137th section, (No. 162.)

Whenever the trustees go out of office they are to deliver to their successors all the books in the district library, with the case and all other appurtenances, and such delivery should be had within ten days at least after their successors are chosen ; and the librarian is at the same time to deliver to his successor all the minutes, catalogues, papers and property, appertaining to the library.

III. When any library is purchased and taken charge of by the librarian, he is to make out a full and complete catalogue of all the books contained therein. At the foot of each catalogue the librarian is to sign a receipt in the following form :

I, A. B., do hereby acknowledge that the books specific in the preceding catalogue have been delivered to me by the Trustees of School District No.            in the town of            to be safely kept by me as Librarian of the said District for the use of the inhabitants thereof, according to the regulations prescribed by the Superintendent of Common Schools, and to be accounted for by me according to the said regulations to the Trustees of the said District, and to be delivered to my successor in office. Dated, &c.

A correct copy of the catalogue and receipt is then to be made, to which the trustees are to add a certificate in the following form :

We, the subscribers, Trustees of School District No.      in the town of      do certify the preceding is a full and complete catalogue of books in the library of the said District now in possession of A. B. the Librarian thereof, and of his receipt thereon. Given under our hands this      day of      18 .

The catalogue having the librarian's receipt, is to be delivered to the trustees, and a copy having the certificate of the trustees, is to be delivered to the librarian for his indemnity.

Whenever books are added to the library, a catalogue with a similar receipt by the librarian is to be delivered to the trustees, and a copy with a certificate of the trustees that it is a copy of the catalogue delivered them by the librarian, is to be furnished to him. Every catalogue received by the trustees is to be kept by them carefully among the papers of the district and to be delivered to their successors in office.

IV. During the week preceding the annual meeting all the books shall be called in. For this purpose the librarian is to refuse to deliver out any books for fourteen days preceding the time so prescribed for collecting them together. The trustees must make a careful examination of the books, compare them with the catalogue, and make written statements in a column opposite the name of each book of its actual condition, whether lost or present, and whether in good order or injured, and if injured, specifying in general terms, the extent of such injury. This catalogue with the remarks, is to be kept by them ; a copy of it is to be made out, and delivered to the new librarian with the library, by whom a receipt in the form above prescribed is to be given, and to be delivered to the trustees. Another copy certified by them as before mentioned, is to be delivered to the librarian.

V. Trustees are to attend to the library for the purpose of comparing the catalogue with the books. They are, at all times, when they think proper, and especially on their coming into office, to examine the books carefully, and to note such as are missing or injured. For every book that is missing the librarian is accountable to the trustees for the full value thereof, and for the whole series of which it formed a part; such value to be determined by the trustees. He is accountable, also, for any injury which a book may appear to have sustain-

ed, by being soiled, defaced, torn, or otherwise. And he can be relieved from such accountability only by the trustees, on its being satisfactorily shewn to them that some inhabitant of the district has been charged or is chargeable for the value of the book so missing, or for the amount of the injury so done to any work. It is the duty of the trustees to take prompt and efficient measures for the collection of the amount for which any librarian is accountable; such amount, when collected, is to be applied as directed in article XII, of regulations No. II, with respect to fines.

VI. It is the duty of the trustees to provide a plain and sufficient case for the library, with a good lock, if the district shall have neglected to do so. They are also to cause the books and case to be repaired as soon as may be, when injured; they are also to provide sufficient wrapping paper to cover their books, and the necessary writing paper to enable the librarian to keep minutes of the delivery and return of books. These are proper expenses for the preservation and repair of the books, and are to be defrayed by a tax on the district, which is to be added by any tax voted by a district meeting. It is not necessary that the tax to defray these expenses should be voted by the inhabitants of the district; it is to be assessed and collected in the same manner as a tax for building or repairing a school house, or to furnish it with necessary fuel and appendages,

VII The librarian must cause to be pasted in each book belonging to the library, a printed label, or must write in the first blank leaf of each book, specifying that the book belongs to the library of school district No.            in the town of           , naming the town and giving the number of the district; and he is on no account to deliver out any book which has not such printed or written declaration in it. He is also to cause all the books to be covered with strong wrapping paper, on the back of which is to be written the title of the book, and the number in large figures. As new books are added, the numbers are to be continued, and they are in no case to be altered; so that if a book be lost, its number and title must still be continued on the catalogue, with a note that it is missing.

VIII. The librarian must keep a blank book, that may be made by stitching together half a dozen or more sheets of writing paper. Let these be ruled across the width of the paper so as to leave five columns, of the proper size for the following entries, to be written lengthwise of the paper; in the first column, the date of the delivery of any

book to any inhabitant; in the second the title of the book delivered and its number; in the third, the name of the person to whom delivered; in the fourth, the date of its return; and in the fifth, remarks respecting its condition, in the following form:

| Time of delivery. | Title and No. of book.     | To whom.  | When returned. | Condition. |
|-------------------|----------------------------|-----------|----------------|------------|
| 1839.<br>June 10. | History of<br>Virginia. 43 | T. Jones. | June 20.       | Good.      |

The proper width of each column can be ascertained by writing the different entries on a half sheet of paper and seeing how much room they respectively occupy.

As it will be impossible for the librarian to keep any trace of the books without such minutes, his own interest to screen himself from responsibility, as well as his duty to the public will, it is to be hoped, induce him to be exact in making his entries at the time any book is delivered; and when it is returned, to be equally exact in noticing its condition, and making the proper minute.

IX. A fair copy of the catalogue should be kept by the librarian, to be exhibited to those who desire to select a book; and if there be room, it should be fastened on the door of the case.

X. The several trustees of school districts are hereby required, in their annual reports to the town superintendent of common schools, to state the *number* of books belonging to their district library on the last day of December in each year.

XI. The trustees of each school district shall, at the time of their making their annual reports, deliver to the town superintendents of their town, a catalogue containing the titles of all the books in the district library, with the number of volumes of each set or series, and the condition of such books, whether sound, or injured, or defaced. This catalogue must be signed by them and by the librarian.

XII. The town superintendent of common schools in each town is required carefully to preserve such catalogues, and deliver them, with the papers of their office, to his successor, who is also required to preserve the catalogues delivered to him, and hand them over to his successor.

XIII. Town superintendents of common schools cannot pay over any library money to the trustees of a district in the following cases:

1st. If a catalogue, as required by article XI, has not been delivered to them.

2d. If the number of books belonging to its library is not stated in the annual report of the trustees.

3d. If it does not clearly appear from such report that the *whole* of the library moneys paid to such district the preceding year, have been expended according to law. No part of the library money can be applied to the purchase of a *case* for the books. These are the "like conditions" referred to in the act authorising the apportionment of public money to district libraries.

4th. Wherever it appears that any district has expended any portion of its library money in the purchase of any text book used in schools, such as spelling books, arithmetics, or grammars, or any book clearly improper to be admitted into a district library.

XIV. Whenever town superintendents withhold from any district its library money, they are not to distribute the money among the other districts, but are to report the case and the circumstances to the Superintendent, in order to enable him to exercise the discretion given by § 142, (No. 167.)

XV. Whenever in these regulations any act or duty is directed or authorized to be performed by trustees of libraries, the same may be performed by a majority of the trustees at a meeting of the whole number; and when any meeting of the trustees shall have been notified, by notice given by any one trustee to the others, a majority of the whole are competent to the transaction of any business, in the same manner as if all were present. But a majority cannot act unless notice has been given to all to attend at the time and place of meeting.

XVI. Whenever the legal voters of two or more districts desire to unite their library moneys and funds, and purchase a joint library, under the provisions of the 141st section of the act hereto annexed, (No. 166,) a special meeting should be called in each district for the purpose, under a notice specifying the object. The trustees will then transmit to the town Superintendent certified copies of the votes, and

a statement of the number voting for and against them. They will also furnish statements of the number of inhabitants, the valuations of their property, the amount of library money received in each district, the amount each has voted to raise by tax on the district, and a general description or map of the districts, so as to shew their contiguity; and in all cases where the convenience of the inhabitants will be promoted and the great object of the libraries will be advanced by such a union, the town superintendent, it is presumed, will cheerfully give his approbation to its being formed.

XVII. Where such a union is formed, the preceding regulations will be deemed to apply to the joint library, subject only to the variations prescribed in the before mentioned 141st section, and such as arise from the nature of the union. A majority of the whole number of trustees of all the districts considered as one body, will be competent to the transaction of business, and to decide all questions which may properly come before them.

It is proper to remark that by section 145 of the act, (No. 173,) a penalty of ten dollars is incurred by every town superintendent of common schools and by every trustee of a school district for refusing or wilfully neglecting to perform any duty required by law or by any regulation of the Superintendent of Common Schools, under the authority of the statute; and they are also liable to their towns and districts for the amount of any loss that may be sustained by reason of such neglect or refusal.

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## DISTRICT LIBRARY REGULATIONS, NO. II.

*Regulations concerning the use of the Books in District Libraries prescribed by the Superintendent of Common Schools pursuant to the 139th section, of the act of 1847.*

I. The librarian has charge of the books and is responsible for their preservation and delivery to his successor.

II. A copy of the catalogue required to be made out by Articles III. and IV. of Regulations No. 1. is to be kept by the librarian, open to the inspection of the inhabitants of the district at all rea-

sonable times. It will be found convenient to affix a copy of it on the door of the book case containing the library.

### III. Books are to be delivered as follows:

1st. Only to inhabitants of the district.

2d. One only can be delivered to an inhabitant at a time; and any one having a book out of the library must return it before he can receive another.

3d. No person upon whom a fine has been imposed by the trustees under these regulations, can receive a book while such fine remains unpaid.

4th. A person under age cannot be permitted to take out a book unless he resides with some responsible inhabitant of the district; nor can he then receive a book if notice has been given by his parent or guardian or the person with whom he resides, that they will not be responsible for books delivered such minor.

5th. Each individual residing in the district, of sufficient age to read the books belonging to the library, is to be regarded as an inhabitant, and is entitled to all the benefits and privileges conferred by the regulations relative to district libraries. Minors will draw in their own names, but on the responsibility of their parents or guardians.

6th. Where there is a sufficient number of volumes in the library to accommodate all residents of the district who wish to borrow, the librarian should permit each member of a family to take books as often as desired, so long as the regulations are punctually and fully observed. But where there are not books enough to supply all the borrowers, the librarian should endeavor to accommodate as many as possible, by furnishing each family in proportion to the number of its readers or borrowers.

IV. Every book must be returned to the library within twenty days after it shall have been taken out, but the same inhabitant may again take it, unless application has been made for it, while it was so out of the library, by any person entitled, who has not previously borrowed the same book, in which case such applicant shall have a preference in the use of it. And where there have been several such applicants, the preference shall be according to the priority in time of

their applications, to be determined by the librarian. Upon application to the Superintendent, the time for keeping books out of the library will be extended to a period not exceeding twenty-eight days, where sufficient reasons for such extension are shown.

V. If a book be not returned at the proper time, the librarian is to report the fact to the trustees; and he must also exhibit to them every book which has been returned injured by soiling, defacing, tearing, or in any other way, before such book shall be again loaned out, together with the name of the inhabitant in whose possession it was when so injured.

VI. The trustees of school districts being by virtue of their office trustees of the library, are hereby authorized to impose the following fines:

1st. For each day's detention of a book beyond the time allowed by these regulations, six cents, but not to be imposed for more than ten day's detention.

2d. For the destruction or loss of a book, a fine equal to the full value of the book, or of the set, if it be one of a series, with the addition to such value of ten cents for each volume. And on the payment of such fine, the party fined shall be entitled to the residue of the series. If he has also been fined for detaining such book, then the said ten cents shall not be added to the value.

3d. For any injury which a book may sustain after it shall be taken out by a borrower and before its return, a fine may be imposed of six cents for every spot of grease or oil upon the cover or upon any leaf of the volume; for writing in or defacing any book, not less than ten cents, nor more than the value of the book; for cutting or tearing the cover, or the binding, or any leaf, not less than ten cents, nor more than the value of the book.

4th. If a leaf be torn out, or so defaced or mutilated that it cannot be read, or if any thing be written in the volume, or any other injury done to it, which renders it unfit for general circulation, the trustees will consider it a destruction of the book, and shall impose a fine accordingly, as above provided in case of loss of a book.

5th. When a book shall have been detained seven days beyond the 20 days allowed by these regulations, the librarian shall give no-

tice to the borrower to return the same within three days. If not returned at that time, the trustees may consider the book lost or destroyed, and may impose a fine for its destruction in addition to the fines for its detention.

VII. But the imposition of a fine for the loss or destruction of a book, shall not prevent the trustees from recovering such book in an action of replevin, unless such fine shall have been paid.

VIII. When in the opinion of the librarian any fine has been incurred by any person under these regulations, he may refuse to deliver any book to the party liable to such fine, until the decision of the trustees upon such liability, be had.

IX. Previous to the imposition of any fine, two day's written or verbal notice is to be given by any trustee, or the librarian, or any other person authorised by either of them, to the person charged, to show cause why he should not be fined for the alleged offence or neglect; and if within that time good cause be not shown, the trustees shall impose the fine herein prescribed. No other excuse for an extraordinary injury to a book, that is for such an injury as would not be occasioned by its ordinary use should be received, but the fact that the book was as much injured when it was taken out by the person charged, as it was when he returned it. As such loss must fall on some one, it is more just that it should be borne by the party whose duty it was to take care of the volume, than by the district. Negligence can only be prevented, and disputes can only be avoided by the adoption of this rule. Subject to these general principles, the imposition of all, or any of these fines, is discretionary with the trustees, and they should ordinarily be imposed only for wilful or culpably negligent injuries to books, or where the district actually sustains a loss, or serious injury. Reasonable excuses for the detention of the books beyond the 20 days, should in all cases be received.

X. It is the special duty of the librarian to give notice to the borrower of a book that shall be returned injured, to show cause why he should not be fined. Such notice may be given to the agent of the borrower who returns the book; and it should always be given at the time the book is returned.

XI. The librarian is to inform the trustees of every notice given by him to show cause against the imposition of a fine; and they

shall assemble at the time and place appointed by him, or by any notice given by them, or any one of them; and shall hear the charge and defence. They are to keep a book of minutes, in which every fine imposed by them, and the cause, shall be entered and signed by them, or the major part of them. Such original minutes or a copy certified by them, or the major part of them, or by the clerk of the district, shall be conclusive evidence of the fact that a fine was imposed as stated in such minutes, according to these regulations.

XII. It shall be the duty of trustees to prosecute promptly for the collection of all fines imposed by them. Fines collected for the detention of books, or for injuries to them, are to be applied to defray the expense of repairing the books in the library. Fines collected for the loss or destruction of any book, or of a set or series of books shall be applied to the purchase of the same or other suitable books.

XIII. These regulations being declared by law "obligatory upon all persons and officers having charge of such libraries, or using or possessing any of the books thereof," it is expedient that they should be made known to every borrower of a book. And for that purpose a printed copy is to be affixed conspicuously on the case containing any library, or in one of such cases, if there be several; and the librarian is to call the attention of every person to them on the first occasion of his taking out a book.

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### Appeals to the State Superintendent.

(The cases in which the courts will not entertain jurisdiction of complaints of erroneous proceedings under the school laws, and in which only a certiorari will lie, may be inferred from the decision of the Supreme Court in the case of *Eaton and others, vs. Calendar*, 11 Wend. 90. "The plaintiff below was not without his remedy. 1 R. S. 487, §110, 111 and the amendment of the law, 20th April 1830, provides that "any person conceiving himself aggrieved in consequence of any decision made by the Trustees of any district in paying any teacher; or concerning any other matter under the present title," (which includes the whole of the school act,) "may appeal to the Superintendent of common Schools whose decision shall be final." This provision was intended for what it practically is, a cheap and expeditious mode of settling most, if not all, of the diffi-

culties and disputes arising in the course of the execution of the law. A common law certiorari would no doubt lie from this court, to the trustees to bring up and correct any erroneous proceeding not concluded by an adjudication of the Superintendent, or in a case where his powers were inadequate to give the relief to which the party was entitled.)

The passage of several acts of the Legislature renders necessary a revision of the regulations concerning appeals : And the following are therefore substituted for those heretofore established :

### CASES IN WHICH APPEALS MAY BE MADE,

*Under the 132 Section of the Common School Act. (No. 157.)*

I. Where any decision has been made by any School District meeting.

This includes the whole class of cases, in which district meetings have the power to decide on any proposition or motion that may legally be made to them, under any section of the School Act.

II. Where any decision has been made by the Town Superintendent of Common Schools, or by him and the Supervisor and Town Clerk, in the forming or altering, or in refusing to form or alter any School District, or in refusing to pay any school moneys to any district, and under the general provision, "concerning any other matter under the present title," appeals will also lie from the proceedings of such Town Superintendent in any erroneous distribution of public money, in paying it to any district not entitled, or more than it is authorized to receive ; and in fact any official decision, act, or proceeding, and from a refusal to discharge any duty imposed by law, or the regulations of the Superintendent, or incident to the duties of his office.

III. Where any decision has been made by trustees of school districts in paying any teacher, or refusing to pay him, or in refusing to admit any scholar gratuitously into the school : And under the same general provision referred to, in improperly admitting any scholar gratuitously, in making out any tax list, or rate bill, or in any act or proceeding whatever, which they undertake to perform officially ; and also for the refusal to discharge any duty enjoined by

law, or any regulation of the Superintendent, or incident to the duties of their office.

IV. Where Town Superintendents have improperly granted or annulled a certificate or qualification to a teacher ; or have refused to grant or annul such certificate : and where they have undertaken to perform any official act, or refused to discharge any duty imposed by law or under its authority, in the inspection of teachers and visitation of schools.

V. Where Clerks of Districts, Clerks of Towns, or other ministerial officers, refuse to perform any duty enjoined by the Common School Act.

VI. Where any other matter under the said act, shall be presented, either in consequence of disputes between districts respecting their boundaries, or any other subject ; or in consequence of disputes between any officers charged with the execution of any duties under the laws concerning Common Schools, or disputes between them and any other person relating to such duties or any of them.

*Under the 140th section "respecting School District Libraries,"*  
(No. 165.)

VII. Appeals may be made from any act or decision of trustees or school districts concerning the Libraries, or the books therein, or the use of such books.

VIII. Any act or decision of the Librarian in respect to the library.

IX. Any act or decision of any district meeting in relation to their school library.

X. Appeals also lie from the acts of Town Superintendents of Common Schools in withholding or paying over library money to any district.

## BY WHOM APPEALS ARE TO BE MADE.

XII. The person aggrieved by the act complained of only can appeal. Generally every inhabitant of a district is aggrieved by the wrongful act or omission of a trustee or town superintendent, by which money or property is disposed of, or not secured for the benefit of the district. But no one is aggrieved by another by another being included in a tax list or rate bill, although other inhabitants are by the omission of one who should be taxed; and appeals may be made by trustees, in behalf of their districts whenever they are aggrieved.

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## FORM AND MANNER OF PROCEEDING.

XIII. An appeal must be in writing and signed by the appellant. When made by the trustees of a district, it must be signed by all the trustees, or a reason must be given for the omission of any, verified by the oath of the appellant, or of some person acquainted with such reason.

XIV. A copy of the appeal, duly verified, and of all the statements, maps and papers intended to be presented in support of it, must be served on the officers whose act or decision is complained of, or some one of them; or if it be from the decision or proceeding of a district meeting, upon the district clerk or one of the trustees, whose duty it is to cause information of such appeal to be given to the inhabitants who voted for the decision or proceeding appealed from.

XV. Such service must be made within thirty days after the making of the decision, or the performance of the act complained of: or within that time, after the knowledge of the cause of complaint came to the appellant, or some satisfactory excuse must be rendered for the delay.

XVI. The party on whom the appeal was served, must within ten days from the time of such service, answer the same, either by concurring in a statement of facts with the appellant, or by a separate answer.

Such statement and answer must be signed by all the trustees, or other officers, whose act, omission or decision is appealed from, or a good reason on oath must be given, for the omission of the signature of any of them, verified by oath, and a copy of such answer must be served on the appellants, or some one of them.

XVII. So far as the parties concur in a statement no oath will be required to it. But all facts, maps or papers not agreed upon by them and evidenced by their signature on both sides, must be verified by oath.

XVIII. All oaths required by these regulations must be taken before a judge of a court of record, a commissioner of deeds or a justice of the peace.

XIX. A copy of the answer and of all the statements maps and papers intended to be presented in support of it, must be served upon the appellants, or some one of them, within ten days after service of a copy of the appeal, unless further time be given by the state superintendent, on application, in special cases; but no replication or rejoinder shall be allowed, except by permission of the state superintendent, and in reference exclusively to matters arising upon the answer, and which may be deemed by such state superintendent pertinent to the issue: in which case such replication and rejoinder shall be duly verified by oath, and copies thereof served on the opposite party.

XX. Proof or admission of the service of copies of the appeal, answer and all other papers intended to be used on the hearing of such appeal, must in all cases, accompany the same.

XXI. When any proceeding of a district meeting is appealed from, and when the inhabitants of a district generally are interested in the matter of the appeal, and in all cases where an inhabitant might be an appellant, had the decision or proceeding been the opposite of that which was made or had; any one or more of such inhabitants may answer the appeal, with or without the trustees.

XXII. Where the appeal has relation to the alteration or formation of a school district, it must be accompanied by a map, exhibiting the site of the school house, the roads, the old and new lines of districts, the different lots, the particular location and distance from

the school-houses, of the persons aggrieved; and their relative distance, if there are two or more school houses in question. Also, a list of all the taxable inhabitants in the district or territory to be affected by the question; the valuation of the property taken from the last assessment roll, and the number of children between five and sixteen belonging to each person, distinguishing the districts to which they respectively belong.

XXIII. When the copy of the appeal is served, all proceedings upon or in continuation of the act complained of, or consequent in any way upon such act, must be suspended until the case is decided. So where any decision concerning the distribution of public money to one or more districts is appealed from, the town superintendent must retain the money which is in dispute until the appeal is decided. And where trustees have money in their hands claimed to belong to any person, or any other district, after the copy of an appeal is served on them in relation to such claim, they must retain such moneys to abide the result, and must not expend them so as to defeat the object of the appeal.

XXIV Whenever a decision is made by the superintendent, and communicated to the town superintendent of common schools, respecting the formation, division or alteration of districts, he must cause the decision to be recorded in the office of the town clerk. All other decisions communicated to him, or to the trustees of districts, are to be kept among the official papers of the clerk of the town or district and handed over to his successors; and the district clerks are required to record all such as come to their hands in the district book kept by them.

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## 1. Visiting the Districts and Inspecting the Schools by Town Superintendents.

The Statute makes it the duty of every town superintendent, "to visit and examine all the schools and school districts committed to his charge as often as twice in each year, and oftener if practicable, having reference to the number of such districts." This language is understood to mean that the districts and schools are to be visited as often as may be necessary.

1. The act does not require the superintendents to notify the trustees of their visits and invite their attendance. The superintendents should, however, give notice to the trustees of the districts, of the time when their schools will be visited. To enable them to comply with these provisions, they should make a previous arrangement of their visits, in reference to the means of travelling, so as to reach as many districts as possible in the shortest time. Having fixed the time for visiting the schools, they should at once give ample notice, by transmitting a copy of their arrangement to the trustees of the districts embraced within it, and request them to attend.

The inhabitants of the district, and particularly parents who have children attending the school, should be invited to be present at the inspection by the superintendent; and trustees of districts are hereby required, whenever they receive information of an intended visit, to communicate it as generally as possible to the inhabitants. Their attendance will afford an opportunity for the public addresses of the superintendents, before suggested.

2. *Examination of the School.*—Preparatory to this, the superintendent should ascertain from the teacher the number of classes; the studies pursued by each; the routine of the school; the successive exercises of each class during each hour of the day; the play spells allowed, &c., and thus obtain a general knowledge of the school, which will be found greatly to facilitate his subsequent duties. Every superintendent is enjoined to call for and examine the list of scholars in the book which the Statute requires the teacher to keep, in order that he may see whether the names are correctly and neatly entered. He will also examine the *day roll* and the *weekly roll*, which by the preceding regulations, teachers are directed to preserve, and will ascertain by the proper enquiries, whether they are exact in entering all who are present.

The superintendent will then hear each class recite the ordinary lesson of the day. It will then be examined on the subjects of study. Generally it will be better to allow the teacher to conduct the exercises and examinations, as the pupils will be less likely to be intimidated, and an opportunity will be given of judging of the qualifications of the instructors.

To enable him to compare the school with itself at another time, and with other schools, and to comply with the regulations hereinafter contained, respecting the annual reports, the superintendent should

keep notes of his observations, and of the information he obtains on all the subjects on which he is required to report; and he should particularly note any peculiarities which seem to require notice, in the mode of instruction, in the government and discipline of the school, and the appearance of the pupils, in respect to their cleanliness of person and neatness of apparel.

3. The superintendent will also examine the condition of the school house and its appurtenances; whether the room has the means of ventilation, by lowering an upper sash, or otherwise; whether it is sufficiently tight to protect the children from currents of air, and to keep them warm in winter; whether there is a supply of good water; the condition of the privies, and whether they are provided for both sexes; and the accommodations for physical exercise. Their attention will be given to the arrangement of the school room; whether the seats and desks are placed most conveniently for the pupils and teachers, and particularly whether backs are provided for the seats, a circumstance very important to the comfort and health of the children. They should also inquire whether blackboards and alphabetical cards, or any apparatus to assist learners are furnished.

The preceding topics of inquiry are suggested, rather as hints of the most important, than intended to embrace the whole field. The judgment and observation of the superintendents will discover many other subjects deserving their attention.

4. The superintendents will also inquire into the condition of the district, in relation to its ability to maintain a school; whether its interest and the convenience of its inhabitants can be promoted by any alterations, without injury to others; and they will suggest whatever occurs to them, to the trustees.

In case of any gross deficiency or inconvenience, which the proper officers refuse or decline to remedy, the superintendents will note it in their annual reports to the county clerks.

5. They will also examine the district library, and obtain the information respecting it, hereinafter required to be stated in their reports.

## II. Advising and consulting with the trustees and other officers of school districts.

This is made a special duty of the town superintendents by these instructions; they are to advise the trustees and other officers in relation to all their duties, and to recommend to them and the teachers the proper studies, discipline, and conduct of the school, the course of instruction to be pursued, and the elementary books to be used. The notes which the superintendents make during their inspection of the school, will much facilitate the discharge of this portion of their duty.

1. In regard to proper studies. If they find any important one omitted, or that pupils are hastened on without thoroughly understanding the preliminary or previous branches, they should point out the error and its consequences. For instance, they should urge the absolute necessity of children being thoroughly and frequently exercised in spelling, so that they make no mistakes in any words in common use. Without this it is impossible for them to be good readers. And in the exercise of reading, they should insist on clear and distinct articulation, more than any other quality; and generally the ability of the superintendent is relied upon to detect bad habits in the manner of reciting, erroneous ideas on the subject and superficial acquirements.

2. The *discipline* and *conduct* of the school. It can scarcely be necessary to remark on the importance of order and system in the schools, not only to enable the pupils to learn anything, but to give them those habits of regularity so essential in the formation of character. Punctuality of attendance, as well as its steady continuance should be enforced. Parents should be told how much their children lose, to what inconvenience they expose the teacher, and what disorder they bring upon the whole school, by not insisting upon the scholars being punctually at the school room at the appointed hour; and above all, they should be warned of the injurious consequences of allowing their children to be absent from school during the term. By being indulged in absences they lose the connection of their studies, probably fall behind their class, become discouraged, and then seek every pretext to play the truant. The habit of irregularity and insubordination thus acquired, will be apt to mark their character through life. Trustees should be informed that the omission of parents to require the regular and punctual attendance of their children will

justify their exclusion, on account of the effect of such irregularity upon the other pupils.

The superintendents should also observe whether the teachers are careful to preserve the respect of their pupils, not only by maintaining their authority, but by a becoming deportment, both in the school room and out of it.

3. With regard to the *course of instruction*, the advice of the superintendents will often be of great value. The usual order has been found by long experience to be the best, viz: the alphabet, spelling, reading with definitions, arithmetic, geography, history and grammar. No child should be put to any study beyond his capacity, or for which he is not already prepared. English grammar particularly demands so much exercise of the intellect, that it ought to be delayed until the pupil has acquired considerable strength of mind

4. *The books of elementary instruction.*—It is believed that there are none now in use in our schools that are very defective; and the difference between them is so slight, that the gain to the scholar will not compensate for the heavy expense to the parent, caused by the substitution of new books with every new teacher; and the capriciousness of change which some are apt to indulge on this subject, cannot be too strongly or decidedly resisted. Trustees of districts should look to this matter when they engage teachers.

One consequence of the practice is, the great variety of text books on the same subject, acknowledged by all to be one of the greatest evils which afflicts our schools. It compels the teacher to divide the pupils into as many classes as there are kinds of books, so that the time which might have been devoted to a careful and deliberate hearing of a class of ten or twelve, where all could have improved by the corrections and observations of the instructor, is almost wasted in the hurried recitations of ten or a dozen pupils in separate classes; while in large schools, some must be wholly neglected. Wherever the superintendents find this difficulty existing, they should not fail to point out its injurious consequences, and to urge a remedy by the adoption of uniform text books as speedily as possible. To accomplish this, let the trustees, under the advice of the teacher, inspectors and superintendents, determine what text books shall be used in each study, and require every child thereafter coming to the school to be provided with the designated books. This very desirable uniformity may, perhaps, be facilitated by exchanges between

different districts, of the books that do not correspond with those in general use, for such as do. For instance, in one school the great majority of spelling books may be those of Webster with some of Marshall's, while the latter may predominate in another district in which there are also several of Webster's. In such cases, an exchange of the different books between the two would obviously be mutually beneficial. The superintendents might assist in the execution of such an arrangement by noting the proportions of the various books in the different schools.

5. *The Erection of School Houses.*—It would be for the town superintendents to give particular attention to this subject. Whenever they learn that the building of a school house is contemplated, they should advise with the trustees respecting its plan. He must be a superficial observer, who has not perceived how much the health of pupils, the order and discipline of a school, and the convenience of the teacher, depend upon the arrangements of the school room. This is not the place to state the best models. Information upon that point, collected with great care from Europe and America, has already been given, and will continue to be furnished in the District School Journal. Whenever repairs are about to be made to school houses, the superintendents should avail themselves of the occasion to recommend such improvement as may be desirable.

6. In their consultations with trustees and teachers, the superintendents should be especially careful to communicate their suggestions in a kind and friendly spirit, as the most likely means of success, and as the only mode of preserving those harmonious relations, which are essential to their own happiness as well as usefulness; and whenever they observe any thing in the mode of instruction, in the government or discipline of the school, or in any other point, which, in their judgment, requires correction, they will make it a point to intimate their views to the teacher in private, and never, on any occasion, suffer themselves to find fault with him in the presence of his pupils. Children cannot discriminate, and they will feel themselves at liberty to blame, when the example has been set by others. The authority of the teacher should be preserved entire while he remains. If his conduct is worthy of public censure, he should be at once dismissed, rather than be retained to become an object of the contempt of his scholars.

### III. Reports to the County Clerks.

1. *The time when they are to be made.*—The town superintendents of common schools are required to file their reports with the county clerk, on or before the first day of August in each year. The law makes it the duty of the county clerks, to transmit abstracts of all such reports to the superintendent by the first day of October in each year.

2. *Their contents.*—The reports are required to be made the same as those heretofore made by the County Superintendents, with such additional information as the superintendent shall require.

They will also report the number of district schools visited by them during the year, and the number of times each school has been so visited. They will state the condition of the schools under the following heads:

(1.) *Teachers.*—The number of males and their ages, viz: the number under 18 years of age; those over 18 and under 21; over 21 and under 25; over 25 and under 30; over 30 and under 40; over 40 and under 50; and over 50. The number of females and their ages in the same manner. The length of time those of different sexes have taught school, viz: the number of males who have taught less than one year; the number who have taught one year and less than two; two years and less than four; four years and less than six; more than six years; and the same in respect to females. They will also state the monthly compensation of the teachers, specifying how many receive the different sums that may be found to be paid; thus, the number receiving \$8.00 per month; the number receiving \$10.00, &c. and arranging them according to the sex of the teachers. They will ascertain from the teachers respectively, the different portions of time they have kept any one school, and will communicate the result in a table, showing how many teachers have kept the same school one year, two years, three years, four years, five years, more than five and less than ten, and more than ten years.

(2.) *The course and extent of study pursued.*—Under this head the report will state the following particulars:

Number of pupils in attendance at each time of visitation.

Number of classes in the school.

Number of pupils learning the alphabet.

Number of pupils learning to spell without being able to read.

Number of pupils learning to read.

do do to define words.

Number of pupils studying arithmetic, but not beyond simple division.

Number of pupils beyond simple division.

do studying geography,

do do History of the U. States.

do do other history.

do do grammar.

do do use of globes.

do engaged in other studies, specifying them and the number pursuing each study.

(3.) They are to report the result of their observations:

1st. In relation to the qualifications of the teachers generally.

2d. In relation to the mode of teaching adopted in the schools.

3d. In relation to their government and discipline.

And they will notice gross irregularities or imperfections.

4. *Condition of the School Houses.*—They will state the number built of stone; those of brick; of wood framed, and of logs; also the number having but one room; those having two rooms in which schools are kept, and those having three or more rooms; the number in good repair, and the number in bad or decaying condition. They will also state the number which have no privies; those which have one; and those which have two or more.

5. *Condition of the District.*—Any information which may be obtained under the inquiries already suggested, and which may be deemed useful, or in respect to which any beneficial action of this department can be had, will be stated in this report.

6. *The state of the district libraries.*—The town superintendents are required to examine the library of each district, and ascertain the whole number of books purchased, and on hand, and their condition; and the average number in circulation, i. e. the proportion usually kept out. They will state in their reports, the whole number of books in all the district libraries in the county, and the average of circulation obtained from the averages of each district. They will state, generally, the condition of the books, as far as seen by them, and the degree of care and attention apparently bestowed in their preservation by the trustees and librarian. If they discover

any improper books in the libraries, they should suggest to the trustees their removal; and if they find them continued, notwithstanding, they will report the facts to this department.

7. They will also report the whole number of persons to whom they have given certificates of qualification as teachers, during the year, specifying their sexes and ages, viz: those under 18—those over 18 and under 21—over 21 and under 25—over 25 and under 30—over 30 and under 40—over 40 and under 50—and those over 50.

8. It will be perceived that trustees of school districts are required to state in their reports the number of select schools, other than those that are incorporated, within their respective districts, and the average number of pupils attending them. There are such schools in cities and villages, as in Utica, Schenectady, Poughkeepsie and other places, which are not within any school district. As the information desired has a very important bearing upon the common school system, the town superintendents are required to ascertain the number of such schools and the pupils taught in them during the year, which are kept in such cities and villages and are not included in any school district, and state them in their annual reports. They will be careful not to embrace any that are contained in the reports of the trustees; and to insure accuracy, they will specify the city or village in which the select schools are established. Those that are incorporated will be included in the reports to the Regents of the University.

#### IV. The licensing of teachers and annulling their certificates.

##### 1. *Examining and licensing Teachers.*

This authority, it will be perceived, is given by §34, of the act of 1847, (No. 59.) It being very desirable that all the teachers should be licensed by the town superintendents, so as to secure the competent talent and knowledge, and to produce uniformity in a county; and to afford every reasonable accommodation to those desiring to offer themselves, they should make their arrangement to examine applicants for licenses in their towns. For this purpose, they

should appoint a particular day and place in the town, and when the town is very large, in different sections of it, when they will be in readiness to examine teachers. Public notice of such appointment should be given. It is probable that this will bring together several applicants, and thus diminish the labors of the superintendent, particularly as a license by him will obviate the necessity of early examinations, as well as prevent the necessity of a re-examination during the year. In making such examinations, they should confine themselves to the subjects specified in the statute § 35, (No. 60,) and should ascertain the qualifications of the candidates in respect, 1st, to moral character; 2d, learning; and third, ability.

*First.*—They should require testimonials of moral character, from those acquainted with the applicant, which is to be either verbal or written, and the latter is to be preferred. This is not a matter to be neglected or slighted. Those to whom the training of our youth is to be committed, should possess such a character as will inspire confidence in the rectitude of their principles and the propriety of their conduct; and it is to be understood as a positive regulation of this department, that no license is to be granted, without entire satisfaction on this point. This must be understood to relate to moral character—to the reputation of the applicants as good citizens, free from the reproach of crime or immoral conduct. It does not extend to their belief, religious or political; but it may apply to their manner of expressing such belief or maintaining it. If that manner is, in itself, boisterous and disorderly, intemperate and offensive, it may well be supposed to indicate ungoverned passions, or want of sound principles of conduct, which would render its possessor obnoxious to the inhabitants of the district, and unfit for the sacred duties of a teacher of youth, who should instruct as well by example as by precept.

*Second.*—As to the learning of the applicants. It should appear from their examination that they are good spellers, distinct and accurate readers, write good and plain hands, can make pens and are well versed

1st. In the definition of words:

2d. In arithmetic, at least as far as the double rule of three:

3d. In geography, as far as contained in any of the works in ordinary use:

4th. In the history of the United States, of England, and of Europe generally:

5th. In the principles of English grammar: and,

6th. In the use of globes.

If they are found well acquainted with the other branches, a more slight knowledge of the 4th and 6th heads, as above enumerated, may be excused.

*Third.*—The ability of the applicants to teach. Mere learning, without the capacity to impart it, would be of no use. The superintendents should satisfy themselves by general inquiries, and particularly by a thorough examination of the applicants respectively, of their qualifications in this respect; of their tact in dealing with children, and especially of their possessing the unwearied patience, and invariable good nature, so necessary to constitute useful teachers of youth.

Having satisfied themselves on these several points, the town superintendents will grant certificates in the usual form.

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## V. Miscellaneous Duties.

1. Town superintendents are not within the class of public officers required by the constitution to take the oath of office.

2. Upon filing their bonds and notices of acceptance as required by law, they are directed to announce the fact to this department, stating their places of residence, and the post-office to which communications intended for them should be addressed. They will also state the most practicable mode of transmitting to them any books or packages.

3. The town superintendents should make themselves familiar with the laws concerning common schools, the regulations of the superintendent, and his decisions and instructions in explanation of them, which will be furnished to each. They will find this knowledge equally indispensable to the performance of their own duties, and to enable them to impart the information and furnish the advice for which they will be constantly solicited, and which is, indeed, one principal object of their appointment.

4. By the tenth section, of the Act, chap. 133, of the laws of 1843, the State Superintendent is authorized, on the recommendation of the County Superintendent, or on such other evidence as he may deem satisfactory, to grant certificates of qualification of the highest grade. This power must of necessity be sparingly exercised : and will be reserved as the suitable reward of thoroughly tested superiority in teaching. The several town superintendents may in their discretion suggest the names and distinctive qualifications of teachers within their jurisdictions, whom they are willing to recommend as candidates for such State certificate ; having particular reference to ability and success in the communication of mental and moral instruction, and of the power of self-culture and the formation of those habits and principles best adapted to develop and strengthen the various physical, intellectual and moral faculties ; which will be considered by the Department.

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### UNIFORMITY OF TEXT BOOKS.

5. It is believed that a more propitious period could not be presented when an earnest and systematic effort should be made, under the auspices of the Town Superintendents, to relieve our institutions of elementary instruction from the serious embarrassments resulting from the diversity and constant change of text books. The several Town Superintendents are therefore enjoined to avail themselves of the earliest practicable opportunity to cause an uniform series of text books, embracing all the elementary works ordinarily used in the common schools, to be adopted in each of the districts subject to their supervision, under the direction and with the consent of the Trustees ; and when so adopted, not to be changed for the term of three years. Whenever such uniformity can be extended throughout all the districts of the town, and throughout all the towns of the county, it is very desirable that such an extension should be made ; but from the great diversity of views in relation to the relative merit of different works, the progress of this extension must necessarily be slow. The foundations may, however, be laid by the attainment of uniformity in the respective districts, for an ultimate harmony of views and concert of action on a wider theatre.

6. *County Visitors.* The authority to appoint these visitors given by the act of 1839, (No. 3,) remains in full force, and the gentlemen

heretofore selected retain the powers conferred by their appointment and the statute. The same exigency for their services still exists, yet they can be eminently useful in awakening public attention and concentrating public opinion on the subject of primary education, by co-operating with the town superintendents. They are, therefore, to be encouraged and assisted in any efforts they may make to visit the schools and improve their condition. The town superintendents will find them efficient and able auxiliaries.

A review of the several heads of these instructions will impress the town superintendents with the extent, variety and importance of the duties they have assumed. They will perceive that their stations will not be sinecures ; and that upon the faithful and conscientious discharge of their obligations will depend the success or failure of our system of common school instruction.

It can scarcely be necessary to say that they are invited to communicate freely with this department ; and that all the aid in its power will be cheerfully rendered to facilitate the performance of duties, to which the hopes and expectations of the friends of education are so anxiously directed, and from which good may yet result to the people of this State.

N. S. BENTON,

*Superintendent Common Schools.*

*Albany, Dec. 24, 1847.*

1800

1810

1820

1830

1840

1850

1860

1870

1880

1890

1900

1910

1920

1930

1940

1950

1960

1970

1980

1990

2000

2010

2020

2030

2040

2050

2060

2070

2080

2090

2100

2110

2120

2130

2140

2150

2160

2170

2180

2190

2200

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## W.

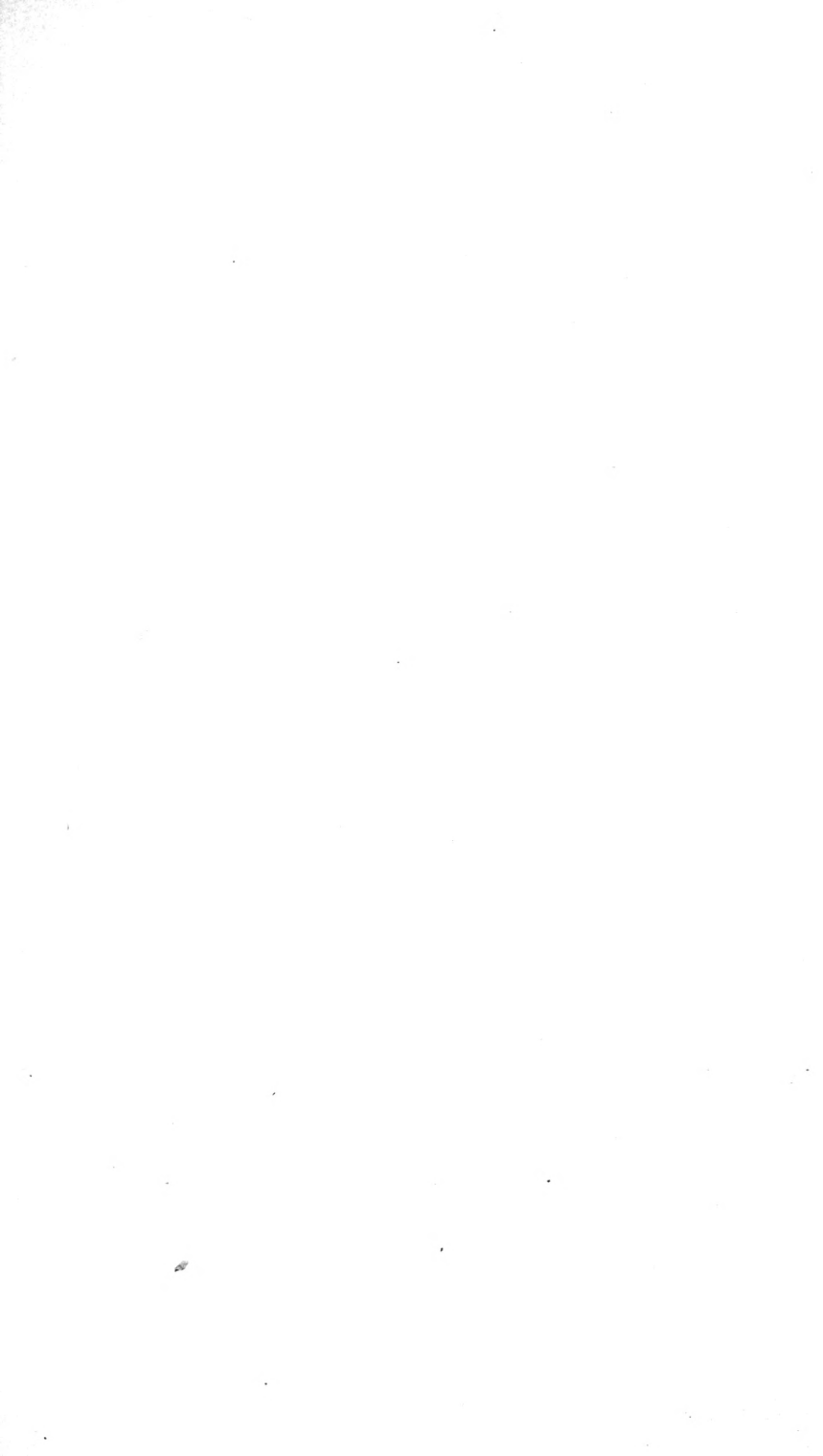
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#### ERRATA.

On page 76 of the Instructions, 2d paragraph, under the head "County Clerks," and at the end of the 2d line, strike out "commissioners," and insert "town superintendents."

On page 158, at the end of 2d line, under head "Mode of proceeding in the collection of taxes and rate bills," strike out the figures "82," and insert "122," 213



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