Law of Maryland.

IN COUNCIL,

Annapolis, April 21st, 1826.

Ordered, That the several acts of assembly, proposing alterations in or amendments to the constitution, which were passed at December session last; and also the act entitled, "An act to provide for the public instruction of youth in primary schools throughout this state," be published once a week for four weeks in the Maryland Republican, and Maryland Gazette, Annapolis; The Patriot, American, Gazette, and Chronicle, Baltimore; Political Examiner, Frederick Town; Maryland Herald, and Torch Light, Hagerstown; Maryland Advocate, Cumberland; True American, Rockville; Elkton Press; Chester Town Telegraph; Centreville Times; Star, and Gazette, Easton; Cambridge Chronicle, and Bond of Union, Harford county.

By order, THO. CULBRETH, Clk.

AN ACT

To provide for the Public Instruction of Youth in Primary Schools throughout this state.

Sec. 1. *Be it enacted by the General Assembly of Maryland*, That there shall be constituted and appointed by the governor and council, an officer to be known and distinguished as the Superintendant of Public Instruction.

2. *And be it enacted*, That it shall be the duty of the said Superintendant to digest and prepare a plan or plans for the public instruction of youth throughout the state, for the organization, improvement and management of such system as may be adopted, and of such revenues as may from time to time, be assigned and appropriated to the general objects of the institution; to prepare and report estimates and expenditures of the said revenues; to superintend the collection thereof; to apportion the funds; to perform such duties in relation thereto, as may by law be required of him; to give information to the legislature on all matters referred to him by either branch, or which shall appertain to his office; and generally to execute all concerns in relation to the administration of his department; and before entering upon the duties of his office, he shall take an oath or affirmation for the diligent and faithful execution of the duties of his office.

3. *And be it enacted*, That the justices of the levy court in each of the several counties of this state, in the month of April, or at any special meeting for that purpose to be called, shall annually appoint nine of the inhabitants of their respective counties, to be commissioners of primary schools for the said county; also a suitable number of discreet persons, not exceeding eighteen, who, together with the commissioners, shall be inspectors of primary schools for the said county, which said commissioners and inspectors shall hold their offices for one year, and until others shall be appointed in their places; and in case any of the said officers so appointed or to be appointed as aforesaid, shall refuse to serve, or die, or remove from the county, or become incapable of serving, the same shall be supplied at the next meeting of the levy court.

4. *And be it enacted*, That each of the said officers, so to be chosen or appointed as aforesaid, shall, before he enters upon the execution of his office, and within fifteen days after his election or appointment as aforesaid, take and subscribe an oath before some justice of the peace, in the form following; that is to say, "I, ——, do solemnly and sincerely promise and swear or affirm, as the case may be, that I will in all things, to the best of my knowledge and ability, well and truly execute the trust reposed in me as commissioner or inspector, as the case may be, of primary schools for the county, without favour or partiality," and every justice of the peace before whom such oath shall be taken and subscribed as aforesaid, shall, without fee or reward certify the same in writing, the day and year when the same oath be taken, and subscribe his name thereto, and then deliver such writing to the person taking such oath, who shall, within eight days thereafter, transmit or deliver the same to the clerk of the county for which such officer so taking such oath, was elected or appointed, and if any such officer, so chosen or appointed, as aforesaid, shall not take and subscribe such oath as aforesaid, and transmit or deliver the same as aforesaid, within the time for that purpose limited as aforesaid, such neglect shall be deemed a refusal to serve in such office; and if any person so chosen or appointed, to such office as aforesaid, shall refuse to serve in such office, or shall serve therein before he shall have taken and subscribed such oath as aforesaid, then, and in every such case, such person shall forfeit and pay the sum of ten dollars, to be recovered with costs of suit, before any justice of the peace having jurisdiction thereof, by action of debt, the one moiety thereof to the use of the primary schools of the county for which such officer was chosen or appointed as aforesaid, and the other moiety thereof, with costs of suit, to the use of any person who shall prosecute for the same to effect.

5. *And be it enacted*, That it shall be the duty of the commissioners of primary schools, or the major part of them, to divide their respective counties into a suitable and convenient number of school districts, and to alter and regulate the same as hereafter provided, and it shall be the further duty of the commissioners of the primary schools aforesaid, immediately after the formation or alteration of any such school district in their respective counties, to describe and number the same, and to deliver the description and number thereof, in writing, to the clerk of the county, who is hereby required to receive and record the same in the county records, without fee or reward.

6. *And be it enacted*, That the said commissioners may alter and change the school districts, with a view to their better arrangement, and the more general convenience of the people: *Provided, however*, That no such alteration or change shall be made before the first day of April, or after the first day of June in each year, unless the trustees of the district, so to be altered or changed, shall assent thereto.

7. *And be it enacted*, That it shall be the duty of the several constables in their respective counties, to notify the different officers, to be appointed in virtue of the provisions of this act, of their appointments, having received notice from the appointing power, whose duty it shall be to give such notice to the constables aforesaid.

8. *And be it enacted*, That whenever any school districts shall be formed in any county, by the commissioners of primary schools as aforesaid, it shall be the duty of the said commissioners, within twenty days thereafter, to make a notice, in writing, describing such districts, and appointing a time and place for the first district meeting, and notify the taxable inhabitants residing in such district aforesaid, by public advertisements, to be put up at the most public places of the said district, at least six days before the time of such meeting, and in case such notice shall not be given as aforesaid, or the inhabitants of such district, when so notified, shall neglect or refuse to assemble or form a district meeting, in pursuance of such notice, or in case any district, having been formed or organized in pursuance of such notice, shall, in the opinion of the commissioners aforesaid, be dissolved by adjournment without day, or from any other cause whatever, it shall and may be lawful for the commissioners aforesaid, or any of them, at any time thereafter, to renew such notice, and the inhabitants of such district, liable to pay taxes as aforesaid, shall assemble together in pursuance of such notice; and when so assembled in district meeting, it shall and may be lawful for them or a majority of such of them as shall be present at such district meeting, to adjourn to any other time or place; and at such first, or any future legal district meeting, it shall and may be lawful for them, or a majority of such of them as shall be present as aforesaid, to adjourn from time to time as occasion may require, to fix on a time and place for holding their future annual meetings, which annual meetings they are hereby authorised and required to hold; to choose by ballot, one district clerk, who shall give bond to the satisfaction of the trustees, to keep the records and proceedings of such meetings; also three trustees to manage the concerns of such district, and one district collector; also to designate a site for their school house; to vote a tax on the resident inhabitants of such district, as they, or a majority of such of them as shall be present as aforesaid, shall deem sufficient to purchase a suitable site for the school house, and to build, keep in repair, and furnish such school house with necessary fuel, books, stationary and appendages, and to repeal, alter, regulate and modify all such proceedings, or any part thereof, from time to time, as occasion may require; *provided however*, That no alteration as to the site of a school house, shall take place, but by consent of at least four commissioners of the county; and it shall and may be lawful for the trustees of such districts, or a majority of them, whenever they shall deem it necessary, to call a special meeting of the said inhabitants of such district, notice thereof being given as hereinafter provided, and no district meeting held as aforesaid shall be taken or deemed illegal for defect or want of due notice to any of the said inhabitants of such district; provided the omission to give such notice be not willful and designed.

9. *And be it enacted*, That the clerk, trustees, and collector of each school district, shall hold their respective offices until the annual meeting of such district next following the time of their election, and a new election shall have been made, and in case such offices, or any of them, shall be vacated by the death, refusal to serve, removal out of the district, or incapacity of any such officer, and such vacancy shall not be supplied by the district at a special or other district meeting, within one month thereafter, it shall and may be lawful for the commissioners of primary schools for the county in which such district shall be situated, to supply such vacancy by the appointment of any person residing in such district, and such appointment shall have the same effect, to all intents and purposes, as if the same had been made by the district, at any legal district meeting, and every person who shall be duly chosen or appointed as aforesaid, to serve in any such office, and shall refuse to serve therein, shall forfeit and pay the sum of five dollars, to be recovered, with costs of suit, by action of debt, in the name of the commissioners of primary schools, for the county in which such person shall reside, or in the name of any other person, before any justice of the peace having cognizance thereof; and such sum, when so recovered, shall be paid to the commissioners aforesaid, for the use of the primary school in such district; and every person who being duly chosen or appointed as aforesaid, to serve in any such office, and having accepted thereof, or not declared his refusal to accept, shall neglect the performance of the duties of such office; shall forfeit and pay the sum of ten dollars, to be recovered with costs of suit, in manner aforesaid, and for the use aforesaid.

10. *And be it enacted*, That it shall be the duty of the clerk of each school district, to keep the records and proceedings of his district, in a book to be provided for that purpose, and whenever a special district meeting shall be called by the trustees of such district, it shall be the duty of such clerk to give notice as aforesaid of the time and place of such special district meeting, to the inhabitants of such district, at least ten days before such such meeting shall be held, and when any district meeting shall be adjourned for a longer time than one month, it shall be the duty of the clerk of such district to give notice thereof in writing as aforesaid, at least ten days before the time appointed for such meeting; and it shall be the further duty of such clerk, to give notice in like manner, of every meeting to be held in such district; and it shall be the duty of such district clerk, to keep and preserve all records, books, writings and papers, belonging to his office, and on the expiration of his time of service, to deliver the same to his successor in office, in the same manner as the county clerk is required by law to deliver all records, books and papers, belonging to his office, to his successor in office, under the penalty of his official bond.

11. *And be it enacted*, That the collector in each school district shall give bond with security, to the satisfaction of the trustees, for the faithful discharge of the duties of his office, and shall have the same power and authority, & have the same fees for collecting, and be subject to the same rules, regulations and duties, with respect to the school business of the district, as by law appertain to the office of collector of the county charges in which such district may be: *Provided*, That the said collector of the county charges may be eligible as the district collector.

12. *And be it enacted*, That it shall be the duty of the trustees of each school district, whenever a district meeting shall have voted a district tax, or as soon as may be, to make a rate bill, or tax list, which shall raise the sum voted for, in due proportion on all the taxable property in such district, agreeably to the assessment of the last proceeding county tax, and to annex to such tax list or rate bill, a warrant, and to deliver the same to the collector of such district, which warrant shall be substantially as followeth: "County of ——, ss. To —— collector of the district in the county aforesaid, greeting. You are hereby required and commanded, to collect from each of the inhabitants of said district, the several sums of money written opposite to the name of each of said inhabitants in the annexed tax list, and within sixty days after receiving this warrant, to pay the amount of the monies by you collected into the hands of the trustees of said district, or some one of them, and take their or his receipt therefor, and if any one or more of said inhabitants shall neglect or refuse to pay the same, you are hereby further commanded to levy on the goods and chattels of each delinquent, and make sale thereof, according to law. Given under our hands and seals this —— day of ——, A. D.

S.
S. } Trustees.
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And if the sum or sums, payable by any person named in such tax list or rate bill, shall not be paid by him, or collected by virtue of said warrant within the time therein limited, it shall be lawful for the trustees aforesaid, to renew such warrant in respect to such delinquent person.

13. *And be it enacted*, That it shall be the duty of the trustees of each school district, whenever a district meeting shall have voted a sufficient tax for that purpose, to purchase a suitable site for their school house, and to build, keep in repair, and furnish such school house with necessary fuel, books, stationary and appendages, and it shall be the further duty of the trustees aforesaid, to agree with and employ all teachers to be employed in such district; *Provided*, That no teacher shall be employed by them, who shall not have received the certificate of approbation from the inspectors of schools, as is herein after provided; and it shall be the further duty of the trustees aforesaid, to pay the salaries of such teachers out of the monies which shall come into their hands from the commissioners of primary schools aforesaid.

14. *And be it enacted*, That it shall be the duty of the trustees of each school district aforesaid, semi-annually on or before the first days of April and October in each year, to make and transmit to the commissioners of primary schools for the county in which such district shall be situated, a report specifying the length of time a school has been kept in such district, the amount of monies received by them, the manner in which the same hath been expended by them, and as nearly as may be, the number of white children taught in such district, and the number of white children residing in such district, between the ages of five and fifteen years inclusive.

15. *And be it enacted*, That it shall be the duty of the commissioners of primary schools for each county, to apply for and receive from the treasurer of the western shore, all monies which shall be apportioned, and payable to their counties, as soon as may be, after the same shall be so apportioned and payable as aforesaid; and it shall be the duty of the commissioners aforesaid to apportion all monies which shall come into their hands for the use of the primary schools, as soon as may be after such monies shall be received by them, amongst the several school districts, lying within their counties, which shall have substantially complied with the provisions of this act, according to the number of children between the ages of five and fifteen years as aforesaid, living in each such district; and all monies so to be apportioned by the commissioners as aforesaid, shall be paid by them according to such apportionment, to the trustees of the district to which such monies shall be apportioned as aforesaid, whose receipts therefor shall be good and sufficient evidence of such payment; which monies so to be received by the trustees as aforesaid, shall be applied and expended by them in paying the salary of the teachers to be employed by them, and for no other purpose; *Provided*, That no monies apportioned as aforesaid, shall be paid by the commissioners aforesaid, until the trustees of the district to which such monies shall be apportioned as aforesaid, or at least two of them, shall have certified, in writing under their hands, and delivered such certificate to the commissioners aforesaid, or some one of them, substantially in the words following, viz: "We the trustees of the —— school district, within the county of ——, do certify, that a school hath been kept in said district for at least three months during the year last past, from the date hereof, by an instructor duly appointed and approved in all respects according to law, and that all monies received during the said year, from the commissioners of primary schools, have been faithfully applied in paying the salaries of such instructor; dated &c. ——, ——, ——, trustees." And all monies which shall be apportioned as aforesaid, shall be paid by the commissioners aforesaid, to the trustees, on their making and delivering to them a certificate, substantially in form following: "We, ——, ——, the trustees of ——, do hereby certify, that all monies heretofore received from the commissioners of primary schools, have been faithfully applied according to the true intent and meaning of the act entitled, An act to provide for the public instruction of youth in primary schools throughout this state; —— ——, trustees" And all monies which shall be apportioned by the commissioners as aforesaid, and which shall remain in their hands unpaid for the space of one year thereafter, either from the omission or neglect of the trustee to apply for, and make the necessary certificates to entitle them to the same, or from any defect in such certificates, shall after the expiration of such year, be added to the monies next thereafter to be apportioned by them, and shall be apportioned and paid together with such monies as aforesaid; and in case any monies, which shall come into the hands of the commissioners aforesaid, for the use of the primary schools for their counties, shall not be apportioned by them as aforesaid, for the space of two years thereafter, by reason of the non-compliance of all the school districts in such county, with the provisions of this act, all such monies so remaining, not apportioned for the space of two years as aforesaid, shall be returned and paid by the commissioners to the treasurer, and be apportioned and distributed by him, together with the other monies next thereafter to be apportioned and distributed by him in pursuance of this act.

16. *And be it enacted*, That if any trustee appointed under this act, shall make a false certificate or report, by means whereof any monies shall be fraudulently obtained from the commissioners aforesaid, or unjustly apportioned by them, such trustee signing such certificate or report, shall forfeit and pay double the amount so fraudulently obtained, to the commissioners of the county in which such trustee shall be appointed or chosen, to be recovered, with costs of suit, by action of debt, before any court of justice, or any justice of the peace having cognizance thereof, in the name of the said commissioners; and such sum exclusive of the costs of suit, shall be applied, when recovered, to the use of the primary schools of such county.

17. *And be it enacted*, That it shall be the duty of inspectors of primary schools, to be appointed under this act, to examine all persons, who shall offer themselves as candidates for teaching primary schools in the county for which such inspectors shall be chosen or appointed; and in such examination it shall be the duty of the inspectors aforesaid to inquire, and so far as they shall be enabled thereto, to ascertain and inform themselves as to all the qualifications mentioned and contained in the certificate hereinafter specified and given in form; and if they shall be satisfied as to the sufficiency of such qualifications, they shall certify, in writing, under their hands, and deliver such certificate to the person so examined by them as aforesaid, in form or substance following viz. "We the undersigned, inspectors of primary schools for the district number ——, in the county of ——, do certify, that we have examined ——, and do believe that he or she, as the case may be, is of a good moral character, and of sufficient learning and ability, and in all other respects well qualified to teach a primary school. Given under our hands, at ——, the —— day of ——, in the year of our Lord, one thousand eight hundred and ——. —— ——

Inspectors of Primary Schools."

And it shall and may be lawful for the inspectors of primary schools, to annul any such certificate so given by them, or their predecessors in office, as aforesaid, to any such person as aforesaid, *Provided*, That notice thereof, in writing, be given to the trustees of the school district, or some one of them, in which such person shall be employed as a teacher, and also to such teacher; at least three days before such certificate shall be annulled as aforesaid: And further if any person shall be employed as a teacher by the trustees of any school district, who shall not have obtained such certificate as aforesaid, from the inspectors of primary schools of the county in which such district shall be situated, or whose certificate so having been obtained, shall have been annulled as aforesaid, such district shall forfeit, for the time such person shall be so employed as aforesaid, all right and claim to any share of the monies which shall come into the hands of the commissioners of primary schools aforesaid, during such time.

18. *And be it enacted*, That it shall be the duty of the inspectors of primary schools aforesaid, to visit all such primary schools within their respective counties, as shall have been formed in pursuance of this act, quarterly, or oftener if they shall deem it necessary, and to examine into the state and condition of such schools, both as respects the proficiency of the scholars, and the good order and regularity of schools, and from time to time to give their 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.

19. *And be it enacted*, That a majority of the said inspectors present, acting in the performance of any of the duties required of them by this act, shall be competent to perform any such duties; *Provided*, That in the examination of teachers, and certifying their qualifications as aforesaid, or in annulling any certificate as aforesaid, not less than three of the said inspectors shall be present; and in all other cases not less than two of said inspectors shall be present.

20. *And be it enacted*, That the establishment and regulation of public or primary schools within the city of Baltimore, shall be vested in the mayor and city council of Baltimore; *Provided*, That if the said mayor and city council shall not within the space of five years after the passage of this act, establish a system of public education within said city, then this act to be of full effect within the city of Baltimore.

21. *And be it enacted*, That it shall be the duty of the commissioners of primary schools of the several counties in this state, on or before the first day of July in each year, to make and transmit a county report to the clerk of their county, embracing the same matters as shall be contained in the reports of the trustees of school districts, to the said commissioners; and the clerks of the several counties shall, on or before the first day of December annually, make a county report, embracing all the matters contained in the several county reports aforesaid, and transmit the same to the superintendant of primary schools, whose duty it shall be annually, on or before the first Tuesday in January, to make a report to the legislature, embracing all the matters contemplated by this act.

22. *And be it enacted*, That the commissioners of primary schools in each county, shall be enabled to hold property which may be granted to them for the use and benefit of the primary schools in their county; and such property, whether real or personal, shall be to them and their successors in office, in the same manner as if they were a body politic and corporate in law, and such property shall be deemed to be vested in the trustees of the several school districts for the use and benefit of their school, in the same manner as if such property had been granted to them for that purpose, and the said trustees of any school district, shall be enabled to hold any property which may be vested in them for the use and benefit of their school; and such property, whether real or personal, shall be to them and their successors in office, in the same manner as if they were a body politic and corporate in law.

23. *And be it enacted*, That as soon as the revenues which may be assigned and appropriated to the encouragement and support of public instruction, shall be sufficient for commencing the munificent purposes of this act, the same shall be apportioned and distributed to each of the several counties of this state and the city of Baltimore, for the use and benefit of primary schools as is herein before provided.

24. *And be it enacted*, That the funds accruing under the act, entitled, "An act to incorporate a company to make a turnpike road leading to Cumberland, and for the extension of the charters of the several banks in the city of Baltimore, and for other purposes," and its several supplements, and the acts of assembly passed at December session eighteen hundred and seventeen, chapters sixteen and ninety-three, according to the provisions of the said acts, shall be considered as included in, and composing a part of the revenues to be assigned and appropriated for the encouragement and support of public instruction; *Provided*, That no other rule of apportionment of the funds which have heretofore been raised, or which may hereafter be raised under the provisions of said acts, than as in such acts is provided, shall be applied to said funds.

25. *And be it enacted*, That all funds hereafter to be assigned and appropriated for the support and maintenance of public instruction, as relating to primary schools, shall be apportioned and distributed amongst the several counties of this state, and to the city of Baltimore, when the said city shall have established public schools either by authority delegated to the said city, or under this act, according to the ratio of white population, as ascertained by the last preceding census of the United States; and it shall be the duty of the superintendant of public instruction, to give notice thereof in writing, to each of the clerks of the county courts of such counties, setting forth the amount of money appropriated to his county, and the time when the same shall be payable to the commissioners of said county.

26. *And be it enacted*, That if any collector appointed under the provisions of this act, shall in any case collect more than is due, the person aggrieved shall have his remedy against such collector by suit or warrant, and if he recover, he shall have judgment for double the amount improperly and unjustly extorted from him, and costs.

27. *And be it enacted*, That the governor and council cause this act to be published for the information of the people, in such of the newspapers in this state and the District of Columbia, as they think proper.

28. *And be it enacted*, That at the next election of delegates to the general assembly, every voter when he offers to vote, shall be required by the judges of election, to state whether he is for or against the establishment of primary schools, and the said judges shall record the number of votes for and against primary schools, and make return thereof to the legislature during the first week of the session, and if a majority of the said votes in any county, shall be in favour of the establishment of primary schools as is therein provided for, then and in that case, the said act shall be valid for such county or counties, otherwise of no effect whatever.

29. *And be it enacted*, That if a majority of the votes of any county in this state, shall be against the establishment of primary schools as established by this act, then and in that case, the said act shall be void as to that county.

By the House of Delegates, 14th day of February, 1826. Read and assented to.

By order, John Brewer, Clk.

By the Senate, 28th day of February, 1826. Read and assented to.

By order, Wm. Kilty, Clk.

JOSEPH KENT, Governor.

Letters from Havana, of the 11th of April, have been received, which state that on that day the John Adams sailed from that place, for the purpose of landing Mr. Williams, our Charge d'Affaires to the Central Republic. We regret to learn also, that the small pox and varioloid were both prevailing to a great extent on board several of the vessels of our squadron.

Letters from Zante mention that "the plague has again broken out at Modon, and that it has extended itself to Coron and Navarino. Vessels going to the Archipelago should therefore avoid putting into those ports, or even approaching the coast, as it is impossible to say how far it may have propa-