

A HISTORICAL STUDY OF SOME EFFECTS OF DUAL CONTROL
IN THE NEW YORK STATE EDUCATIONAL SYSTEM,
1854-1904

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by the university, as are public and private secondary schools. The regents' examinations which loom so large in the thinking of educators from other states, are still the subject of some discussion as to their advantages and disadvantages, but they are recognized by many educators as a useful means of evaluation of instruction, in addition to their value for transfer and college entrance.

In all these respects the regents are a daily force in the life of the people of New York. Their influence is still powerful, as may be seen from the controversy which raged in 1948 during the process of establishing the State University system, and which ended with an informal agreement in which the supervisory influence of the Board of Regents was recognized, while the State University trustees took over the actual control of the units of higher education of which the state-wide system of public higher education is composed. That the regents still have their faithful adherents is seen in the introduction in the legislature in 1950 of a proposal to return the State University system to the actual control of the Board of Regents.

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INTRODUCTION

It is perhaps difficult for those who are not residents of New York State to realize the extent to which the University of the State of New York, through its better-known component, the Board of Regents, enters into the daily life of the people of the state. The writer has had the experience of mentioning the regents to persons in other states, to be met with a pitying glance and a remark, "Oh, yes, those regents' examinations!" What these persons do not realize is that regents' examinations are but one small item in the manifold ways in which the University of the State of New York spreads its influence throughout the state.

The University, through the Board of Regents, controls the entire public educational system of the state. At the present time, the board has supervisory power over the State University system, consisting of over thirty institutions of higher education. Through various departments and bureaus, the University of the State of New York also controls the state system of public education, as well as the state library and museum.

In other ways the influence of the university is felt. Every lawyer, doctor, dentist, veterinarian and pharmacist displays on his office wall a certificate bearing the seal and name of the university. Public libraries are chartered

by the university, as are public and private secondary schools. The regents' examinations which loom so large in the thinking of educators from other states, are still the subject of some discussion as to their advantages and disadvantages, but they are recognized by many educators as a useful means of evaluation of instruction, in addition to their value for transfer and college entrance.

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This study grew out of an original interest in the process by which the state system of supervisory control over the public schools developed. As the "spade-work" on this project progressed, there appeared evidences of the friction which existed for a half-century between the Board

of Regents, controlling the secondary and higher institutions, and the department of public instruction, which had the supervision of the common and normal schools. The existence of this friction was confirmed in a conversation with an executive of the state education department, who offered valuable suggestions as to sources of information.

Further investigation revealed new materials which would lend themselves to the writing of a bit of educational history which seems particularly timely because of the relationship of the Board of Regents to the debates over the State University system. It has seemed to the writer that those who are interested in this recent phase of educational history should be interested in a survey of the roots of this opposition to a body of public officers which has been a part of the state educational system for 166 years. Some of the greatest names in the history of New York have been listed on the membership of the Board of Regents: John Jay, Alexander Hamilton, Morgan Lewis, John Vanderbilt and three Livingstons were members of the original board. Philip Schuyler, Ezra L'Hommedieu, John Jay and Frederick William Baron von Steuben were listed by the act of 1787. Others appear throughout its history.

Investigation revealed further that the evidences of this friction in the educational system were still locked in the source materials of history, and had not been made

the subject of an organized study by any historian of today. The Board of Regents had been the subject of a study completed in 1893 by Sidney Sherwood as a doctoral dissertation for Johns Hopkins University. However the theme of the study had been the development and organization of the university.

For these reasons it has seemed to the writer that a useful historical study could be made of this little-known but timely phase of New York's educational history.

The materials and the methods used have been those of the careful historian: documents, legislative records, session laws, legislative documents and reports, minutes and reports of the regents, reports of the meetings of educational bodies, and so far as possible for a little color, reports from periodicals and the press. In the process of collecting the materials, it has been necessary to use the services of many libraries, for the materials have been quite widely scattered. One particular difficulty encountered lay in the fact that many of the documents needed, dating back as far as 1784, were fragile, sometimes fragmentary, usually requiring the greatest of care. Some of these early volumes were but bundles of pages; and some were used which were partially burned away, showing where they had been rescued from flames, perhaps in a library fire, perhaps saved from destruction by someone who recognized

their value. Early files, for example, of session laws and legislative journals, were very incomplete and necessitated patient checking from library to library to fill the gaps.

Another source of difficulty was the actual lack of some materials, such as those destroyed in a disastrous fire in Albany in 1911, in which considerable quantities of documentary materials were burned. In such cases it has been necessary to refer to carefully selected sources of other types to complete the story as well as possible.

A third source of difficulty in collecting material for this study is the relative scarcity in this state of newspaper materials in bound form. The state library at Albany has the best collection of materials, but files of local dailies and weeklies, which might supply comment, seem to be largely lacking in upstate areas. This it has been necessary to do much work actually in the state library, which has been a necessarily piece-meal accompaniment of a teaching assignment.

The study itself has been divided into two distinct areas. It seemed desirable to survey in the early chapters the establishment of the state educational system, in order that the bases of conflict might be the more apparent. In this section, therefore, has been included the early history of the Board of Regents, and in somewhat more detail, as being more comprehensive, the development of the common school

system. Supervisory control, teacher training and financial support have also been traced to the point where the common school system was well established.

In chapters six to ten are presented in generally chronological order the episodes involving not only friction between the Board of Regents and the department of public instruction, but also points of attack on the regents and the system of higher education from other sources. In these chapters effort has been made, through the use of carefully selected quotations, to indicate the point of view of the person or organization offering the criticism.

Figure I is an attempt to diagram the dual control during this period while Figure II is an effort to clarify the functions of the branches and the points at which they overlapped.

In these final chapters also the process by which the two departments were by legal action unified into one educational control has been described. Because this period of conflict covered almost exactly fifty years, from 1854 to 1904, it has seemed desirable to consider the study a unit within these limits, and leave to later writers with a better perspective the story of the controversy over the State University.

FIGURE I

DUAL CONTROL OF EDUCATION IN NEW YORK STATE,

1784-1904

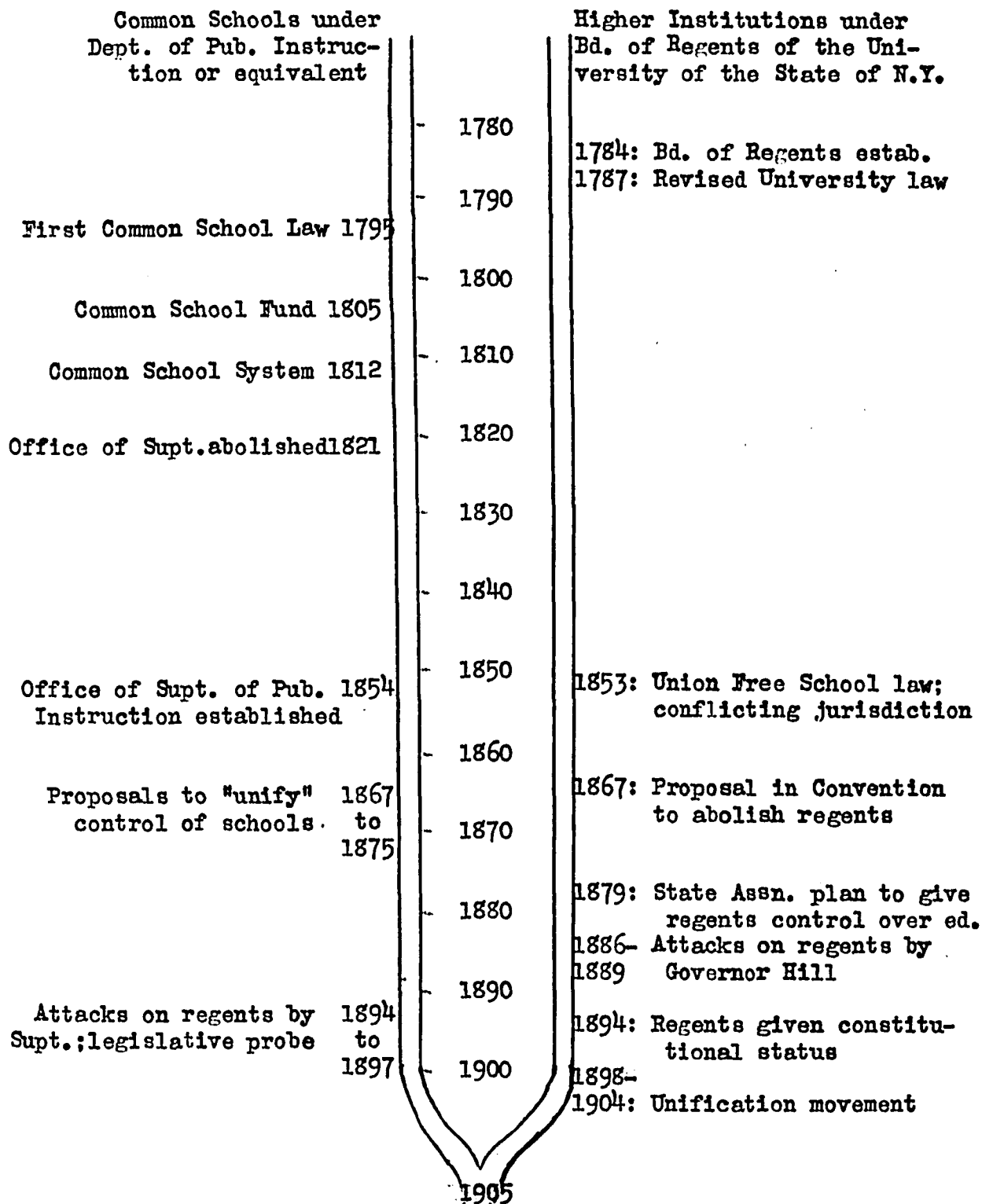
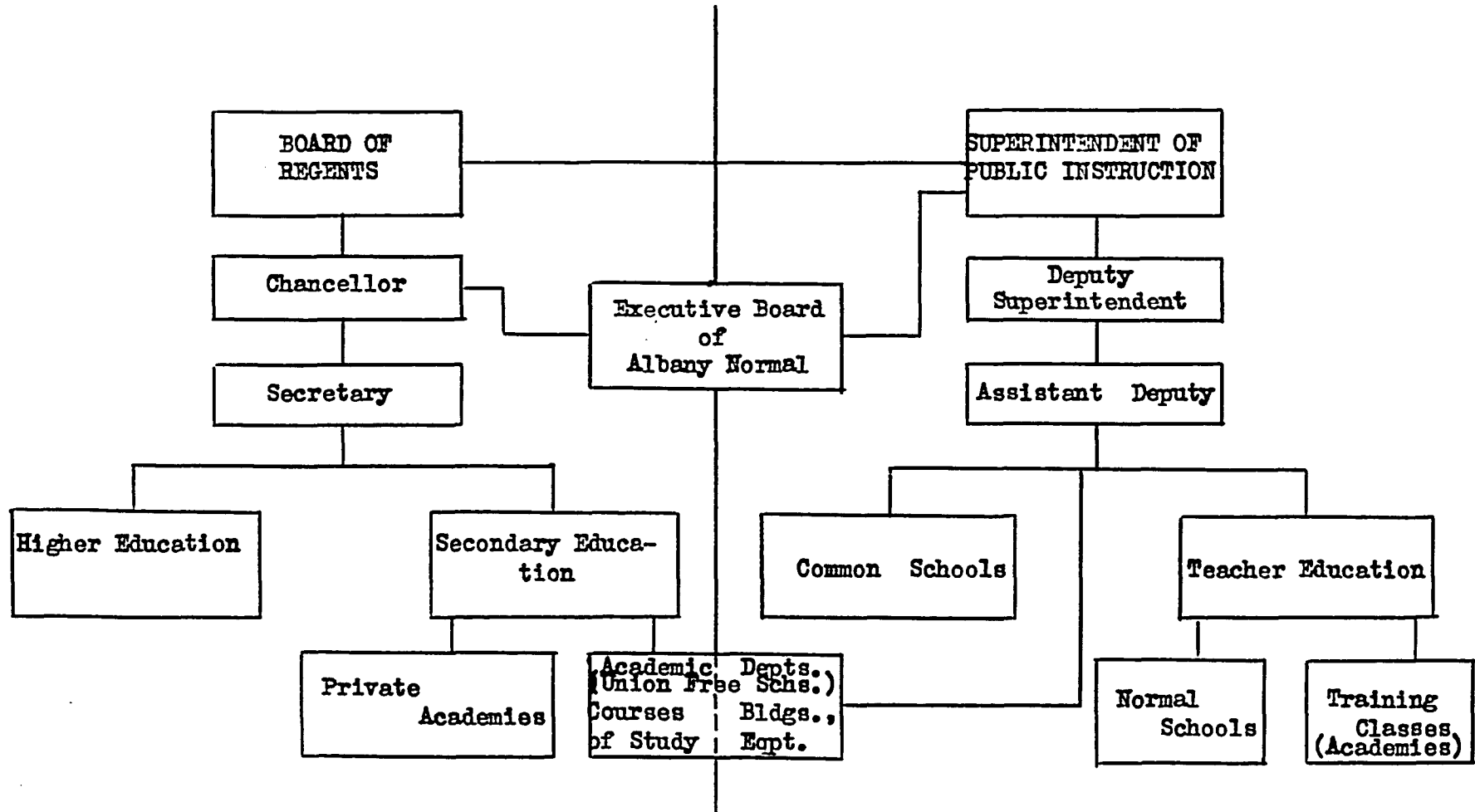


FIGURE II

FUNCTIONS OF THE TWO EDUCATIONAL DEPARTMENTS

AND POINTS AT WHICH THEY OVERLAPPED



CHAPTER I

ESTABLISHMENT OF THE REGENTS

In this opening chapter we shall survey the origin of the New York educational system, devoting a little attention at the outset to the colonial schools. Thereafter, for the major portion of the chapter, we shall review the process by which the unique system known as the University of the State of New York, and its governing body, the Board of Regents, came into being.

The original Dutch settlers of New Amsterdam brought with them a few teachers, who were primarily ministers of the Dutch Reformed Church. Official recognition of the needs of education in the colony resulted in the arrival of Adam Roelandsden¹ who came with Governor Van Twiller in 1633. Under the Dutch regime schools were free, and open to all who wished to attend.² The teachers who followed the nine-year regime of Roelandsden are reported to have "kept school in hired houses."³ Mention of the collection plate having

¹Samuel Sidwell Randall, History of the Common School System of the State of New York, from its origin in 1795 to the present time (New York: Ivison, Blakeman, Taylor & Co., 1871), p. 3.

²Ibid., p. 3.

³Andrew Sloan Draper, Origin and Development of the Common School System of the State of New York (Syracuse: C. W. Bardeen, 1903), p. 22.

been passed to raise money to build a schoolhouse "which has as yet been built only with words"⁴ indicates that the Dutch colonial educational system had its weaknesses.

Further difficulties are indicated by action of the governor and council of the colony who, after receiving complaints that the people of certain villages had not paid for the support of schools, ordered the delinquents to pay their share under pain of legal process.⁵ Petition from the populace to Governor Stuyvesant resulted in 1658 in the establishment of a classical school, of which Dr. Alexander Carolus was appointed principal.⁶ He was allowed an annual salary of \$187.50 from the colony, plus six guilders from each student, was provided with a house and garden, and authorized to practice medicine in addition to his instructional activities.⁷

While some difference of opinion exists as to the extent of English interest in colonial schools after the acquisition of New York, it is evident that there was no great measure of official encouragement given. Permission was granted to establish schools here and there in the colony;⁸ and the new charter granted by William and Mary

⁴Ibid., p. 24.

⁵Ibid., p. 25.

⁶Ibid., p. 25.

⁷Ibid., pp. 26-27.

⁸Randall, op. cit., p. 4.

required the appointment of a schoolmaster in each parish of the colony, selection to be made by the ministers, deacons and elders of the church.⁹ For the most part education in New York under the English regime was under the influence, at least, of the Church of England, as shown by the recurring stipulation in the instructions to the governors that no person should be allowed to come from England to teach without license from the Archbishop of Canterbury,¹⁰ and by the fact that most of the schools were maintained by the English organization known as the Society for the Propagation of the Gospel in Foreign Parts. Loyalty and conformity were essentials for teaching under this organization.¹¹

The conservative and restrictive aspects of this policy are further seen in the letter of the lieutenant-governor, transmitting to the home office the request of the officials of King's College for a charter granting certain particular privileges. The letter urged the granting of the privileges "not only on account of religion, but of good policy, to prevent the growth of republican principles which already too much prevail in the colonies."¹²

⁹Ibid., p. 4.

¹⁰E. B. O'Callaghan, ed., Documents Relating to Colonial History of the State of New York (Albany: Weed, Parsons & Co., 1853), Vol. III, p. 688.

¹¹Draper, op. cit., pp. 29-30.

¹²Ibid., pp. 31-32.

The British had scarcely shaken the dust of New York City from their feet after the conclusion of the Treaty of Paris when we find in the January, 1784, message from Governor George Clinton to the legislature this statement, historic in the annals of New York educational history:

Neglect of the education of youth is among the evils consequent on war--perhaps there is scarce /sic/ anything more worthy your attention, than the revival and encouragement of seminaries of learning; and nothing by which we can more satisfactorily express our gratitude to the Supreme Being for his past favors; since piety and virtue are generally the offspring of an enlightened understanding.¹³

About a month later a Senate committee under the chairmanship of James Duane, a former governor of King's College, introduced a bill bearing the title "An act for establishing a university within this state."¹⁴ On March 30 there was presented to the Senate a petition dated six days before and signed by all the remaining governors of the college, reviewing the previous charter, citing the death or departure of many of the governors, and the inconsistency of the old charter with existing conditions, and praying for an alteration of the charter "as well as an extension of the privileges of the said college so as to render it the mother

¹³New York (State), Messages from the Governors, ed. by Charles Z. Lincoln (Albany: J. B. Lyon Co., 1909), Vol. II, p. 200.

¹⁴New York (State), Senate Journal, 1784 (Albany: E. Holt), p. 34.

of an University to be established within this state. . . .
 ."¹⁵ The petition bore the signatures of George Clinton, Richard Morris, James Duane, Gerard Bancker, Egbert Benson, J. H. Livingston, Samuel Prevoost, John Rodgers, John Morin Scott, Leonard Lispenard, John Livingston, William Walton, and Samuel Bayard, Jr.¹⁶

Referred by the Senate to committee of the whole "to be taken into consideration with the bill for establishing a University," the petition resulted in a merger of the movement to establish a university with that to amend the charter and privileges of the college. On April 16, 1784, Mr. Williams reported for the committee of the whole that the bill had been altered in title to read "An act for granting certain privileges to the college heretofore called King's College, for altering the name and charter thereof, and erecting an University within this state."¹⁷ In this form the bill was passed three days later by the Senate,¹⁸ and on April 21 by the Assembly. It became law after approval on May 1 by the council of revision.¹⁹

¹⁵Sidney Sherwood, University of the State of New York: Origin, History and Present Organization (Regents' Bulletin No. 11, January, 1893. Albany: University of the State of New York, 1893), p. 220.

¹⁶Ibid., p. 221.

¹⁷Senate Journal, 1784, p. 100.

¹⁸Ibid., p. 102.

¹⁹Ibid., p. 135.

Under the act of May 1, 1784, all the former rights, privileges, and immunities of the

corporation . . . known by the name of the Governors of the College of the Province of New York . . . are vested in the regents of the university of the state of New York.²⁰

The law also provided for five classes of regents:

1. Perpetual or ex officio regents, including the governor, lieutenant-governor, president of the senate pro tem, speaker of the assembly, mayor of the city of New York, mayor of the city of Albany, the attorney-general and the secretary of state.²¹

2. Two regents from each of the twelve counties then existing.²²

3. Clerical regents were provided for, but the act was not clear as to whether there should be one representing

²⁰New York (State), Laws of New York, 1777-1801 (republished by Secretary of State. Albany: Weed, Parsons & Co., 1886), Vol. I, p. 687.

²¹Ibid., p. 687.

²²Ibid., p. 687. Henry Brockholst Livingston and Robert Harpur, New York; Walter Livingston and Christopher Yates, Albany county; Anthony Hoffman and Cornelius Humfrey, Dutchess county; Lewis Morris and Philip Pell, Jr., Orange county; Christopher Tappan and James Clinton, Ulster county; Christopher P. Yates and James Livingston, Montgomery county; Abraham Bancker and John C. Dongan, Richmond county; Mathew Clarkson and Rutger Van Brunt, Kings county; James Townsend and Thomas Lawrence, Queens; Ezra L'Homedieu and Caleb Smith, Suffolk county; John Williams and John McCrea, Washington county, were named as county regents by the act.

all denominations or one representing each denomination.²³

4. Founder's regents: Whenever a new school or college should be founded in the state, endowed with an amount which would produce the yearly value of a thousand bushels of wheat, the president and another representative of the new institution became founder's regents upon the admission of the school or college to the University of the State of New York.²⁴

5. The professors and tutors of the colleges admitted to the university were to be ex officio regents, capable of voting in matters appertaining to their college, except where they were personally interested.²⁵

Under this act the appointment of regents was placed in the hands of the governor with the advice and consent of the Council of Appointment, the county representation to be maintained.²⁶

Power granted to the regents for administrative purposes included making of ordinances and by-laws; determination of salaries; removal of presidents, professors, fellows, tutors or servants who were found after a hearing to have abused their trust; levying of fines not to exceed the value of one bushel of wheat; and the suspension or expulsion

²³Ibid., p. 687.

²⁴Ibid., p. 689.

²⁵Ibid., p. 690.

²⁶Ibid., p. 688.

of students for not more than twenty days, unless a hearing were held.²⁷ Religious bodies were granted the privilege of endowing professorships, to the annual value of not less than two hundred bushels of wheat, the regents to administer the endowments.²⁸

The regents were granted power to elect their own officers, including a chancellor, vice-chancellor, secretary, and treasurer; and to make ordinances for the government of the colleges which should compose the university. In exercising the power of appointment of faculty and staff of the colleges, the law stipulated that no religious qualification or oath should be required. The regents were authorized to hold property to the annual value of forty thousand bushels of wheat for the use of the general objects of the university and to found or endow schools and colleges in other parts of the state, to be considered a part of the university subject to control and visitation of the regents. At the same time the act asserted the right of any persons to establish colleges independent of the university system. The regents were also authorized to grant, not only the degree of bachelor of arts, but any degrees conferred by universities in Europe.²⁹

²⁷Ibid., p. 688.

²⁸Ibid., p. 689.

²⁹Ibid., pp. 688-689.

The act as passed soon proved to be unsatisfactory in various respects. The members of the Board of Regents were too widely scattered to attend meetings. The clergy found the original provision for the election of a denominational member or of denominational members ambiguous.³⁰ Columbia College found that the law provided her with too few representatives. Aside from the strictly Columbia representation, which could vote only in matters relating to the college, the institution was represented only by Governor Clinton, Mayor Duane of New York, Attorney-General Benson, and Secretary of State Scott, while among the twenty-four county members, only Henry B. Livingston and Robert Harpur from New York, could be counted on to take a Columbia point of view.³¹

Consequently Governor Clinton's message of October 18, 1784, contained the following suggestion:

It is found by experience that some of the laws of the last session, particularly the act establishing an university in this state. . . require amendment, as well to render them more easy in their execution, as more effectual in their operation. The officers acting immediately under them are directed to state, for your information, the defects which have been discovered.³²

The resulting act must have had the effect of turning

³⁰Sherwood, op. cit., p. 225.

³¹Ibid., p. 225.

³²Messages from the Governors, Vol. II, p. 220.

the Board of Regents into a veritable legislative assembly, for thirty-three additional regents were provided, twenty from New York city and thirteen from the counties. Sherwood speculates that the latter were added to quiet the opposition of the rural areas to packing the Board of Regents on behalf of Columbia College.³³ Among the twenty new members from New York appear the names of John Jay, John H. Livingston, Alexander Hamilton and Morgan Lewis, the latter subsequently governor.³⁴ The effect of this bill was to increase the county representation to fifty-seven, with twenty-two, including the two original members, from New York.³⁵

The difficulty of obtaining a quorum from the widely scattered membership was obviated by the simple device of permitting the chancellor, vice-chancellor or senior regent (in date of appointment) to call a meeting with eight other

³³Sherwood, op. cit., p. 226.

³⁴The act named John Jay, Samuel Prevost, John N. Livingston, John Rodgers, John Mason, John Ganoe, John Daniel Gros, Johann Ch. Kunze, Joseph Delaplain, Gershon Seixas, Alexander Hamilton, John Lawrence, John Rutherford, Morgan Lewis, Leonard Lispenard, John Cochran, Charles Mc Knight, Thomas Jones, Malachi Treat and Nicholas Romain of New York; Peter Yates, Matthew Vischer and Heenlock Woodruff of Albany; George I. L. Doll of Ulster; John Vanderbilt of Kings; Thomas Romain of Montgomery; Samuel Buel of Suffolk; Gilbert Livingston of Dutchess; Nathan Kerr of Orange; Ebenezer Lockwood of West-chester; John Lloyd, Jr., of Queens; Harmanus Garrison of Richmond; and Ebenezer Russell of Washington.

³⁵Laws, 1777-1801, Vol. II, p. 30.

members.³⁶ However, the act provided that a meeting must be advertised in a public newspaper for two weeks previous to the date,³⁷ and stipulated that the annual meeting of the regents should be held at the same time and place as the legislature.³⁸

The confusion regarding the clerical regents was eliminated by a provision authorizing the clergy of each denomination to elect one regent. The law also required the holding of the annual meeting of the regents on the day following the legislative session, unless that day fell on Sunday, and authorized the treasurer of the state to advance twenty-five hundred pounds for the use of Columbia College, the regents to be held accountable.³⁹

During the ensuing year the meetings of the Board of Regents were composed almost solely of Columbia members, the rural members finding it difficult to get to meetings held in New York city.⁴⁰ At subsequent meetings in 1785 and 1786 some care was taken to place country members on committees, particularly one appointed in 1786 to determine ways and means of "promoting literature throughout the state."⁴¹

³⁶Ibid., p. 30.

³⁷Ibid., p. 30.

³⁸Ibid., p. 31.

³⁹Ibid., p. 31.

⁴⁰Sherwood, op. cit., pp. 229-230.

⁴¹Ibid., p. 231.

During the period from April 24, 1786, until the last day of January, 1787, there was no meeting of the Board of Regents. When they convened in annual session on the latter day, nearly all of the members present were of the Columbia faction. A committee was appointed

to take into consideration the present state of the University and to report as soon as possible the measures necessary to . . . carry into effect the views of the legislature with respect to the same and particularly with respect to Columbia college. . . .⁴²

When the Board of Regents met again two weeks later, a report was presented by the committee, recommending that each college should be entrusted to its own corporation with competent powers, but under such subordination to the regents as should be considered necessary. The report also urged the establishment of academies and a system of public elementary schools.⁴³ On February 16, the day following the meeting of the regents, Hamilton introduced a bill into the legislature, which appears to have been drafted as a part of the regents' committee proposal, for it bears the title

An act to render more effectual an act entitled, An act for granting certain privileges to the college, heretofore called King's college, for altering the name and charter thereof and erecting an University within this state.⁴⁴

⁴²Ibid., p. 232.

⁴³Ibid., pp. 234-235.

⁴⁴Ibid., p. 235.

This bill, after first and second readings, was committed to the committee of the whole, from which it appears not to have emerged.

About a week previous to the meeting of the Board of Regents and the presentation of its report, a petition praying for the establishment of an academy at East Hampton had been presented to the Senate and had been referred to a committee consisting of Ezra L'Hommedieu, Thomas Treadwell, Isaac Stoutenburgh and John Vanderbilt.⁴⁵ Apparently the committee devoted some attention to the preparation of a university bill, for the Senate Journal reports on February 27 that Mr. L'Hommedieu stated it as the opinion of his committee that such a bill should be brought in. The Senate adopted the suggestion and ordered him to present such a bill, which, according to the same notation, was ordered to second reading.⁴⁶

Sherwood declares that Samuel Buel, one of the signers of the East Hampton petition, was a regent, and knew that the law intended that the Board of Regents should establish and govern academies. He declares further that the petitioners were evidently afraid that if their academy were founded under the law of 1784, their assets would be subject

⁴⁵New York (State), Senate Journal, 1787 (Albany: Samuel & John Loudon), p. 23.

⁴⁶Ibid., p. 43.

to the control of a Board of Regents dominated by members interested chiefly in Columbia. It is Sherwood's further belief that the resolution presented by the regents at this time indicated that the Columbia "ring" discerned the trend of events and felt a prick of conscience.⁴⁷

On February 28, the day after introduction, L'Hommedieu's bill was ordered to committee of the whole.⁴⁸ There a fight evidently ensued, for the minutes show four successive reports of "progress" and requests for leave to sit again.⁴⁹ In the meantime the Board of Regents held no meetings until March 8, the date of the fourth report from the committee of the whole. On that day a meeting of the board mustered a rather large attendance, but chiefly members of the Columbia faction. Realizing the need for further action, the board took steps to merge their legislative campaign with that being waged by the committee under L'Hommedieu. A regents' committee was appointed

to consider of /sic/ the most proper means for procuring an act of the legislature for amending the charter of the University, either in conformity to . . . the resolution . . . of the 15th of February last or with such alterations as may be found necessary. . . .⁵⁰

⁴⁷ Sherwood, op. cit., p. 237.

⁴⁸ Senate Journal, 1787, p. 44.

⁴⁹ Ibid., pp. 46. 51-53.

⁵⁰ Sherwood, op. cit., p. 239.

To this committee were appointed the speaker of the Assembly, Richard Varick; the mayor of New York, James Duane; Alexander Hamilton, John Jay, Ezra L'Hommedieu, and John Williams.⁵¹

L'Hommedieu apparently accepted the appointment to the regents' committee, for he attended the next and subsequent meetings of the board.⁵² This maneuver on the part of the regents evidently eliminated the obstacles which had prevented passage of a bill, and the measure introduced for the committee by Hamilton, was adopted by the Senate after considerable debate, on March 20, 1787.⁵³

After further legislative maneuvering in the Assembly the bill passed that body in amended form on April 11.⁵⁴ The Senate concurred in the amendments the following day, and on the 13th the bill became law after approval by the council of revision.⁵⁵

The law as enacted designated the corporate name of the University as "The Regents of the University of the State of New York," and provided for the appointment of

⁵¹Ibid., p. 239.

⁵²Ibid., p. 240.

⁵³Ibid., pp. 245-246.

⁵⁴New York (State), Assembly Journal, 1787 (Albany: E. Holt), p. 153.

⁵⁵Senate Journal, 1787, pp. 84, 86.

twenty-one regents.⁵⁶ The law provided for the filling of vacancies, election of officers, calling of meetings, etc. It declared the general powers of the corporation as to holding of property, and the like, to be substantially the same as under the previous law.⁵⁷

The regents were authorized under the new law to grant degrees above that of bachelor or master of arts; to appoint presidents of colleges and principals of academies if the trustees failed to do so for a year; and to apply at their discretion any funds available, except those set aside for a specific purpose. They were also "authorized and required" to visit and inspect colleges and academies.⁵⁸ They were further empowered to incorporate colleges upon petition from cities or organizations, under such conditions as they might approve, but such chartered bodies were to have the same powers as Columbia. The latter institution was authorized to retain the property and other rights of King's college.⁵⁹

⁵⁶The regents appointed were John Rodgers, Egbert Benson, Philip Schuyler, Ezra L'Homedieu, Nathan Carr, Peter Sylvester, John Jay, Dirck Romeyn, James Livingston, Ebenezer Russell, Lewis Morris, Matthew Clarkson, Benjamin Moore, Eliardus Westerlo, Andrew King, William Lynn, Jonathan G. Tomkins, John McDonald and Frederick William von /sic Steuben.

⁵⁷Laws, 1777-1801, Vol. II, pp. 524-525.

⁵⁸Ibid., p. 527.

⁵⁹Ibid., p. 527.

In a number of respects the law differed from the previous enactment. It required the Board of Regents to charter academies if the application complied with the fixed conditions, and appeared likely to promote literature.⁶⁰ The academies thus chartered were given the usual corporate powers, but their income was limited to "the value of four thousand bushels of wheat."⁶¹ The trustees were authorized to make regulations, appoint and remove officers, teachers, etc., fix salaries, and fill vacancies in the Board of Trustees. The regents were designated as the Board of Visitors of the academies.⁶² If the plan of instruction in the academy were approved by the regents, its students would be admitted to any college by examination by its faculty. Any academy which the regents considered sufficiently advanced could be erected into a college.⁶³

Repeating the previous requirement that there should be no religious tests for presidents or professors, the law stipulated that no professor or tutor of a college might be a trustee thereof, and the principal or president, while a trustee, was not to vote on his own salary. Further, the law declared that "no trustee, president, principal, tutor, fellow or other officer of any college or academy" should

⁶⁰Sherwood, op. cit., p. 250.

⁶¹Ibid., p. 250.

⁶²Laws, 1777-1801, Vol. II, p. 530.

⁶³Ibid., p. 530.

be a regent of the university.⁶⁴ Sherwood says:

The result of this law was two-fold. Theoretically, it lessened the rigor of state control of the system, by emancipating the colleges from the actual government of the regents. Practically, it widened the scope of this state control, by emancipating the regents from the monopolizing control of Columbia.⁶⁵

By chapter fifty-nine of the statutes of 1813 the law providing for the organization and government of the university underwent minor changes. To the twenty-one regents previously provided for were added the governor and lieutenant-governor of the state as ex officio members.⁶⁶ Three regents might request a meeting, and eight were declared to constitute a quorum.⁶⁷ The regents were given statutory authority over the funds to be expended by law for "promotion of literature."⁶⁸ In other respects the law was practically the same as the previous enactment.⁶⁹

The literature fund referred to in the act had been established by an act passed in 1790, vesting in the Board of Regents title to a tract of land adjacent to Lake George,

⁶⁴Ibid., p. 530.

⁶⁵Sherwood, op. cit., p. 251.

⁶⁶New York (State), Session Laws, 1813 (Albany: H. C. Southwick & Co.), Vol. II, p. 260.

⁶⁷Ibid., p. 260.

⁶⁸Ibid., p. 261.

⁶⁹Ibid., pp. 260-261.

as well as Governor's Island in New York Bay, to be used for the support of literature. The act provided further an appropriation of a thousand pounds from the state treasury for the same purpose.⁷⁰ Under another enactment of 1801, providing for four successive lotteries, each to raise twenty-five thousand dollars for the support of education, the regents were to receive half the proceeds.⁷¹

With the exception of an act of 1842 which added the secretary of state, in his capacity as superintendent of common schools, to the Board of Regents, no further changes are to be noted in the organization or functions of the regents during this preliminary period. In chapter four, outlining the development of New York education during the period when the superintendent's duties were performed by the secretary of state, reference will be made to activities of the Board of Regents, particularly in connection with teacher training.

We have observed in this chapter the establishment of the University of the State of New York with its governing body, the Board of Regents. Conceived originally as a means of control for the state's one institution of higher learning, the University developed into a statewide system of higher education similar to the French university system,

⁷⁰Laws, 1777-1801, Vol. III, pp. 162-163.

⁷¹Ibid., Vol. V, pp. 299-300.

in which the Board of Regents acted as the controlling body for the secondary and higher institutions of learning founded in the state. With some changes designed, on the one hand, to eliminate the overpowering control of Columbia college, and on the other, to give the colleges and schools more control over their own affairs, the Board of Regents continued to function quietly, granting charters, visiting the institutions under its jurisdiction, granting degrees, and distributing the sums available under the literature fund.

CHAPTER II

ORIGINS OF THE COMMON SCHOOL SYSTEM

As we have noted in the Introduction, the primary purpose of this study is to trace the points of friction between the Board of Regents and the Superintendent of Public Instruction, showing the factors which caused this friction, and their results. It is the purpose of this chapter to relate in sufficient detail the establishment of the common school system in New York, and to lay the foundation for the discussion of the points of issue which later developed.

In the previous chapter we have seen that the legislation creating the Regents of the University provided for their supervision of the academies and colleges of the state. No provision was included for the establishment of a common school system. For the next quarter century efforts in behalf of an elementary school system were sporadic and generally ineffective.

In an act of 1789 is contained a provision looking to the eventual support of education, requiring the surveyor-general to survey twenty townships, each containing one hundred tracts of two hundred and fifty acres each, to be offered for sale. The statute stipulated, however, that near the center of each township one lot should be reserved

for the support "of the gospel" and one for schools.¹

Three years later the annual report of the Regents of the University contained this suggestion:

On this occasion we cannot help suggesting to the legislature the numerous advantages which . . . would accrue . . . from the institution of schools in various parts of the state, for the purpose of instructing children . . . in reading . . . and so much of writing and arithmetic, as to enable them . . . to transact with accuracy and despatch, the business arising from their daily intercourse with each other. The mode of accomplishing this desirable object, we respectfully submit to the wisdom of the legislature.²

Repetition of this point of view by the regents during the two following years³ brought support from Governor George Clinton, who in his message of 1795 expressed himself thus on the subject of public education:

While it is evident that the general establishment and liberal endowment of academies are highly to be commended, and are attended with the most beneficial consequences, yet it cannot be denied that they are principally confined to the children of the opulent, and that a great proportion of the community is excluded from their immediate advantages; the

¹New York (State), Laws of New York, 1777-1801 (republished by Secretary of State. Albany: Weed, Parsons & Co., 1886), Vol. III, p. 66.

Randall (History of the Common School System of the State of New York, 1871, p. 9) is authority for the statement that unsurveyed land owned by the state at that time exceeded seven million acres, chiefly in the northern and western parts of the state.

²New York (State), Senate Journal, 1792 (Albany: Francis Childs & John Swain), p. 90.

³New York (State), Senate Journal, 1794 (Albany: Childs & Swaine), p. 16.

establishment of common schools throughout the state, is happily calculated to remedy this inconvenience and will therefore re-engage your early and decided consideration.⁴

On January 11, 1795, the Assembly placed in the hands of a committee consisting of Jonathan N. Havens of Suffolk county, David Brooks of Dutchess, David Pye of Orange, Ebenezer Purdy of Westchester, Daniel Gray of Rensselaer, Adam Comstock of Saratoga, and Richard Furman of New York, the governor's recommendation on the subject of common schools. From this committee Chairman Havens on February 19 reported an "Act for the encouragement of schools" which passed both houses and became law on April 9, 1795.⁵

This act appropriated for five years the sum of twenty thousand pounds annually for

the purpose of encouraging and maintaining schools in the several cities and towns in this state, in which the children of the inhabitants . . . shall be instruted in the English language, or be taught English grammar, arithmetic, mathematics, and such other branches of knowledge as are most useful and necessary to complete a good English education.⁶

The law specified the amount appropriated to each county, and required the boards of supervisors to raise one-half

⁴New York (State), Messages from the Governors, ed. by Charles Z. Lincoln (Albany: J. B. Lyon Co., 1909), Vol. II, p. 350.

⁵Laws, 1777-1801, Vol. III, pp. 626-631.

⁶Ibid., p. 626.

the state allocation by tax upon the towns.⁷ The statute further provided that each town should elect annually from three to seven commissioners to direct and supervise the schools of the town and apportion the public money among the districts.⁸ The inhabitants of the towns were authorized to "associate together for the purpose of procuring good and sufficient schoolmasters, and for erecting and maintaining schools . . . ,"⁹ and to appoint two or more trustees for each district.¹⁰ The public money was to be distributed to the districts according to the number of days of instruction as reported by the trustees.

And if it shall at any time appear to the said commissioners that the abilities or moral character of the master or masters of any schools, are not such that they ought to be entrusted with the education of the youth, or that any of the branches of learning taught in any school, are not such as are intended to receive encouragement from the moneys appropriated by this act,

the commissioners were required to notify in writing the trustees, who were then required to conduct the school in such a fashion as to obtain the approval of the commissioners.¹¹ Under this act, in sixteen of twenty-three counties

⁷Ibid., pp. 627-628.

⁸Ibid., p. 629.

⁹Ibid., p. 630.

¹⁰Ibid., p. 630.

¹¹Ibid., p. 630.

reporting, 1352 schools were organized in which nearly sixty thousand children received instruction.¹²

When the act expired it was not renewed. In his message of January 28, 1800, Governor John Jay again called the attention of the lawmakers to the condition of the common schools:

Among other objects . . . I earnestly recommend to your notice. . . . our institutions for the education of youth. The importance of common schools is best estimated by the good effects ¹³. . . where they most abound and are best regulated.

A resolution offered in the Assembly proposing to revise and amend the act of 1795, and appropriate \$50,000 annually for schools for a period of five years, was passed March 25, 1800, by a vote of fifty-seven to thirty-six, ¹⁴ and accordingly a clause to this effect was inserted in the annual supply bill by a vote of fifty-one to thirty-five.¹⁵ The clause was eliminated in the Senate, however, nineteen to sixteen.¹⁶

A manifestation of the peculiar attitude and strange

¹²Samuel Sidwell Randall, The Common School System of the State of New York (Troy: Johnson & Davis, 1851), p. 7.

¹³Messages from the Governors, Vol. II, p. 453.

¹⁴New York (State), Assembly Journal, 1800 (Albany: Loring Andrews), p. 221.

¹⁵Ibid., p. 269.

¹⁶New York (State), Senate Journal, 1800 (Albany: Loring Andrews), p. 122.

sense of fitness which pervaded early America in connection with the support of education¹⁷ appeared on the New York statute books in 1801 in the form of a law authorizing and directing the establishment of four lotteries, each to raise \$25,000, half of this amount to be paid to the Regents of the University "for the support of literature" and the other half to be paid into the treasury for the encouragement of common schools.¹⁸ An amendment to the law subsequently directed the comptroller to invest the proceeds of the lotteries in real estate, pending provision by the legislature for use of the funds.¹⁹

The following year Governor Clinton reasserted his position on common schools in his annual message to the legislature:

The system for the encouragement of common schools having been discontinued, and the advantage to morals,

¹⁷The educational historian H. G. Good in his History of Western Education (New York: MacMillan, 1948) notes that "Boarding the teacher was a form of school support, and it was not the only example of 'payment in kind.' An Ohio teacher in 1825 contracted to accept Indian corn at thirty cents a bushel, and a governor of Massachusetts paid the expenses of his son at Harvard College in the same commodity. Rents from lands or fish weirs, income from herds of cows, contributions, bequests, license fees collected from banks, theaters, liquor sales, and marriages, occupational taxes, and rate bill, and other items were among the sources of funds applied to schools before taxation was fully accepted." pp. 421-422.

¹⁸Laws, 1777-1801, Vol. V, pp. 299-300.

¹⁹New York (State), Session Laws, 1803 (Albany: Charles E. & George Webster), p. 350.

religion, liberty and good government arising from the general diffusion of knowledge being universally admitted, permit me to recommend this subject to your deliberate attention. The failure of one experiment for the attainment of an important object ought not to discourage others.²⁰

A year later, no legislative provision for education having resulted from his previous suggestion, the governor tried again:

The establishment of common schools has at different times engaged the attention of the legislature, but although its importance is generally acknowledged, a diversity of sentiment respecting the best means has hitherto prevented the accomplishment of the object. The diffusion of knowledge is so essential to the promotion of virtue and the preservation of liberty, as to render arguments unnecessary. . . . /E/ducation . . . tends to prevent those evils in society which are beyond the sphere of legislation.²¹

In the sessions of 1803 and 1804 proposals were introduced in the legislature by Jedediah Peck, from the joint committee on the governor's message, implementing that portion of the message, but both failed to receive favorable action.²²

Of Jedediah Peck, to whom, Randall says, was due more than to any other man the credit for establishing the common

²⁰Messages from the Governors, Vol. II, p. 512.

²¹Ibid., p. 528.

²²New York (State), Assembly Journal, 1803 (Albany: John Barber), pp. 112, 136, 237-238; Assembly Journal, 1804 (Albany: John Barber), pp. 121, 192. In both cases, the Assembly adjourned leaving the bill in the committee of the whole.

school system,²³ Judge Hammond says in his History of Political Parties in New York:

Judge Peck, although a clear-headed, sensible man, was an uneducated emigrant from Connecticut. His appearance was diminutive, and almost disgusting. In religion he was fanatical, but in his political views he was sincere, persevering and bold; and although meek and humble in his demeanor, he was by no means destitute of personal ambition. He was an itinerant surveyor in the county of Otsego, then a new and uncultivated part of the State. He would survey your farm in the day time, exhort and pray in your family at night, and talk on politics the rest of the time. Perhaps on Sunday, or some evening of the week, he would preach a sermon in your schoolhouse. . . . It is due to this plain, unlettered farmer to add, that he was intent upon making some permanent provision for /the public schools/ and that he formed the project of establishing the Common School Fund . . . ; that he never lost sight of it; and that to his indefatigable and persevering efforts, aided by Mr. Adam Comstock of Saratoga, another uneducated and plain, but clear-sighted . . . man, we are principally indebted for our School Fund and our Common School System. What military chieftain--what mere conqueror by brute force, has conferred so deep, so enduring an obligation upon posterity?²⁴

That George Clinton was not alone in his advocacy of a common school system is shown in the message of Governor Morgan Lewis, sent to the legislature in special session in the fall of 1804:

In government resting upon public opinion, and deriving its chief support from the affections of a people, religion and morality cannot be too sedulously

²³Randall, 1871, op. cit., p. 10.

²⁴Jabez D. Hammond, History of Political Parties in New York (Cooperstown: H. & E. Phinney, 1846, 2 vols.), Vol. I, pp. 123-124.

inculcated. To them science is an handmaid; ignorance the worst of enemies. Literary information should then be placed within the reach of every description of citizens, and poverty should not be permitted to obstruct the path to . . . knowledge. Common schools under the guidance of respectable teachers, should be established in every village and the indigent should be educated at public expense. . . .²⁵

In a special message February 4, 1805, Governor Lewis recommended that all the state lands be applied to the support of colleges and schools, the entire fund to be under the administration of the Regents of the University under such regulations as the legislature might prescribe. He proposed that the power be given to the regents to appoint for each district three trustees, who would be authorized to locate schoolhouse sites, erect schoolhouses, employ teachers, use the district funds, and levy taxes on the district when necessary to raise further sums to support the school and educate the indigent.²⁶ This suggestion, however, failed to find favor in the eyes of the lawmakers.²⁷ On April 2, 1805, the legislature approved a bill providing that the proceeds of the next five hundred thousand acres of land sold by the surveyor-general should be applied as a common school fund, to be invested until the interest had reached the sum of \$50,000, after which an

²⁵Messages from the Governors, Vol. II, pp. 550-551.

²⁶Ibid., pp. 557-558.

²⁷New York (State), Senate Journal, 1805 (Albany: John Barber), p. 32. Committed to committee of the whole, February 4, 1805. No record of action in committee.

annual distribution should be made to the districts.²⁸ This act, says Randall, laid the foundation for the fund for support of common schools.²⁹

An increment to the fund resulted from the passage, at the same session, of an act to incorporate the Merchants' Bank of New York. By the charter law, the state reserved the right to subscribe without payment for three thousand shares of the capital stock of the bank, which with the interest and dividends expected to be accrued, were to be applied as a fund for the support of common schools and expended as directed by the legislature.³⁰ Subsequent enactments of March 13, 1807, and April 8, 1808, authorized the comptroller to invest the sums thus obtained, with funds resulting from the literature lotteries, in the purchase of additional stock of the Merchants' Bank, the residue to be loaned.³¹

With these exceptions the statute books are empty of legislation concerning common schools during the five years from 1806 through 1810. In the latter year Governor Daniel D. Tompkins referred to the subject of public education in

²⁸New York (State), Session Laws, 1805 (Albany: Charles E. & George Webster), pp. 126-127.

²⁹Randall, 1851, op. cit., p. 9.

³⁰Session Laws, 1805, p. 65.

³¹New York (State), Session Laws, 1807 (Albany: Websters & Skinner), p. 84; New York (State), Session Laws, 1808 (Albany: Websters & Skinner), p. 243.

the following paragraph from his annual message:

I cannot omit . . . inviting your attention to the means of instruction for the rising generation. To enable them to perceive and duly to estimate their rights; to inculcate correct principles and habits of morality and religion, and thus to render them useful citizens, a competent provision for their education is all-essential. The fund already appropriated for common schools already produces an income of about twenty-six thousand dollars, annually, and is daily becoming more productive. It rests with the legislature to determine whether the resources of this state will justify a further augmentation of that appropriation as well as to adopt a plan for its application and distribution.³²

In response to a resolution from the legislature the comptroller reported that the school fund receipts to that date amounted to \$151,115.69, of which \$29,100 had been invested in the stock of the Merchants' Bank, \$114,600 loaned according to law, and the balance remained in the state treasury.³³

In January, 1811, Governor Tompkins again alluded to the needs of common schools:

The mode of applying the fund set apart for the encouragement of common schools, and the means of adding to the liberal patronage which has been already extended for the promotion of learning and the consequent advancement of the cause of morality and religion will form part of the interesting matters which ought to attract your notice.³⁴

³²Messages from the Governors, Vol. II, p. 660.

³³New York (State), Senate Journal, 1810 (Albany: Solomon Southwick), p. 115.

³⁴Messages from the Governors, Vol. II, pp. 675-676.

This suggestion, supplemented probably by a greater degree of readiness on the part of the legislature, resulted in the passage of a law authorizing the governor to appoint a commission of five members to report on a plan for the organization and establishment of common schools.³⁵ Under the act, the governor appointed as commissioners Jedediah Peck, John Murray, Jr., Samuel Russell, Roger Skinner and Robert Macomb.³⁶

The significance of their report in the annals of common school education in New York is such that extensive quotation seems justified.

. . . Education as the means of improving the moral and intellectual faculties, is . . . a subject of the most imposing consideration. To rescue man from that state of degradation to which he is doomed, unless redeemed by education; to unfold his physical, intellectual and moral powers; and to fit him for those high destinies which his Creator has prepared for him, cannot fail to excite the most ardent sensibility of the philosopher and statesman. . . .³⁷

.
The commissioners think it necessary to represent . . . the importance and absolute necessity of education. . . . The expedient devised by the legislature is the establishment of common schools; which being spread throughout the state and aided by its bounty, will bring improvement within the reach and power of the humblest citizen. This appears to be the best plan that can be devised to disseminate religion, morality and learning throughout a whole country. All

³⁵New York (State), Session Laws, 1811 (Albany: Websters & Skinner), p. 335.

³⁶Messages from the Governors, Vol. II, p. 707.

³⁷Ibid., p. 718.

other methods, heretofore adopted, are partial in their operation and circumscribed in their effects. Academies and universities . . . cannot be considered as operating impartially and indiscriminately, as regards the country at large. The advantages of the first are confined to the particular districts in which they are established; and the second . . . are devoted almost exclusively to the rich. In a free government, where political equality is established, and where the road to preferment is open to all, there is a natural stimulus to education. . . . In populous cities . . . schools are generally established by individual exertion. In these cases . . . the expenses of schools are divided among a great many. It is in the remote and thinly populated parts of the state . . . that education stands greatly in need of encouragement. . . . Every family . . . must either educate its own children, or the children must forego the advantages of education.

These inconveniences can be remedied best by the establishment of common schools, under the direction and patronage of the state. In these schools should be taught, at least, those branches of education which are indispensably necessary to every person in . . . his duty as a useful citizen. Reading, writing, arithmetic, and the principles of morality are essential. . . .³⁸

The Commissioners then outlined a plan for the establishment of a common school system:

1. Each town to be divided into districts by three commissioners elected by the voters of the town.
2. Three trustees to be elected in each district to administer the school.
3. The income of the school fund to be divided among the towns according to population.
4. The township quotas to be sub-divided among the districts according to the number of children five to fifteen years of age.
5. Each town to raise by annual tax an amount equal to the amount of state aid.
6. The gross amount of money received from state aid

³⁸Ibid., pp. 719-720.

and the annual tax to be applied to payment of the wages of the teachers.

7. The whole system to be under the supervision of an officer appointed by the Council of Appointment.

8. The districts to raise by tax a sum sufficient to buy the necessary land and erect school buildings.³⁹

The commissioners declared themselves to be

deeply impressed with the importance of admitting . . . such teachers only as are duly qualified. The respectability of every school must necessarily depend on the character of the master. To entitle a teacher to assume the control of a school, he should be endowed with the necessary literary qualifications not only, but with an unimpeachable character. He should also, be a man of patient and mild temperament. 'A preceptor,' says Rousseau, 'is invested with the rights, and takes upon himself the obligations, of both father and mother.' And Quintilian tells us that 'to the requisite literary and moral endowments he must add the benevolent disposition of a parent.'⁴⁰

.

The Commissioners have deemed it proper to recommend to the Legislature the appointment of an officer, whose duty it shall be to superintend . . . the interests and watch the operation of the Common School system.⁴¹

.

The Commissioners cannot conclude this report without expressing . . . their deep sense of the momentous subject committed to them. . . . It is a subject . . . intimately connected with the permanent prosperity of our political institutions. The American empire is founded on the virtue and intelligence of the people. But it were irrational to conceive that any form of government can long exist without virtue in the people. . . . And the Commissioners cannot but hope that that

³⁹ Ibid., pp. 721-722.

⁴⁰ Ibid., pp. 725-726.

⁴¹ Ibid., pp. 727-728.

Being who rules the universe in justice and in mercy, who rewards virtue and punishes vice, will most graciously deign to smile benignly on the humble efforts of a people in a cause purely His own. . . .⁴²

Concrete results from this report appeared in an act passed by the legislature on June 19, 1812. Section I provided that the Council of Appointment should elect a superintendent of common schools, who was to establish an office at the seat of government, and to receive a salary of \$300. after he had given notice of the first distribution of state school money under the act. His duties were stated to be "to digest and prepare plans for the better organization of the common school fund;" to prepare and report estimates of expenditures of the fund; to superintend the collection of the moneys belonging to the common school fund; to supervise the sale of school lands; to give information to the legislature; and "generally to perform all such services relative to the welfare of schools as he shall be directed to perform. . . ."⁴³

The statute directed that the school fund was not to be distributed until the income reached \$50,000, and that amount was to be divided annually until \$60,000 could be apportioned, after which the amount was to be \$60,000

⁴²Ibid., p. 728.

⁴³New York (State), Session Laws, 1813 (Albany: H. C. Southwick & Co.), Vol. I, p. 258.

until it reached \$70,000, etc.⁴⁴ The comptroller was authorized to loan the interest received after the first distribution. Notice was to be given by the superintendent to the county clerks thirteen months in advance of the distribution. Town meetings during this interim were to vote whether to levy a fund for support of schools, in amount equivalent to the state apportionment. Any amount so voted by the town meetings was to be added by the boards of supervisors to the regular town levy collected by the county treasurers. Towns were authorized to levy twice the amount of the state money if they desired.⁴⁵

The towns were authorized and required to elect three school commissioners, and also not over six persons as inspectors of common schools, to act jointly with the commissioners in making inspections and examining and certifying teachers.⁴⁶ The commissioners were authorized to divide the towns into districts.⁴⁷

District meetings were empowered to adjourn their sessions, to appoint a moderator, select a site for a school building, vote taxes for building, repairs, fuel "and appendages," and elect three trustees, a clerk and a

⁴⁴Ibid., pp. 258-259.

⁴⁵Ibid., pp. 259-260.

⁴⁶Ibid., p. 260.

⁴⁷Ibid., pp. 260-261.

collector. The trustee was required to make out the tax list to levy on the inhabitants, and was authorized to call special district meetings.⁴⁸

The act further provided a penalty for persons elected school officers, who refused to serve, and fixed a penalty for illegal voting at district meetings. Tenure of officers was declared to continue until a successor had been elected and qualified, and vacancies were to be filled in the same manner as provided by law for town officers.

The statute stipulated that the "avails"⁴⁹ of the common school fund were to be distributed to the towns according to the latest census figures,⁵⁰ and to the districts according to the number of children of ages five to fifteen resident in the district. A penalty was provided for making false returns on school funds.⁵¹ Trustees were required to report annually to the town commissioners of common schools the length of the term for which the school was maintained, the number of pupils, the amount of state money received and how it was expended. The commissioners were required in their turn to report to the county clerks, and these were

⁴⁸Ibid., pp. 261-262.

⁴⁹A term frequently used at that period, referring to the expected income from a fund or source of income established by law.

⁵⁰Session Laws, 1813, Vol. I, pp. 263-264.

⁵¹Ibid., pp. 264-265.

to report to the superintendent of common schools.⁵² Closing sections of the act referred specifically to Albany, Hudson, and Schenectady, and provided for the re-distribution of the state money as new towns were established.⁵³

In January, 1813, under the act of 1812 Governor Tompkins and the Council of Appointment named as superintendent of common schools a young lawyer, Gideon Hawley, who was to occupy the office until February, 1821, and thereafter to continue his distinguished service to New York state education until his death. Hawley, the son of a clergyman, was educated at Hamilton College, from which he graduated in 1809, and at which he remained for a year as tutor. After beginning study for the ministry he was assailed by too many doubts as to Calvinistic theology to be a conscientious minister, and thereupon abandoned the theological course for the study of law, being admitted to the bar of the Supreme Court of New York in 1812. He determined to seek his professional fortune in one of the western settlements of the state, and had reached Auburn on his journey when he received word of his appointment as superintendent of common schools. After returning to Albany he continued to practice law to supplement the small salary attached to the office

⁵²Ibid., p. 265.

⁵³Ibid., pp. 265-266.

of superintendent.⁵⁴

John V. L. Pruyn in the remarks referred to above says of Mr. Hawley:

Mr. Hawley at once gave to his official duties his best efforts and energies, and always looked to his services in this department as by far the most important of his business life. He believed that he could justly claim to have done more than any other person to organize and establish on broad and sound principles our common school system.⁵⁵

Jabez D. Hammond describes Hawley thus:

. . . a young lawyer, . . . of habits indefatigably industrious, modest and retiring, but possessing great benevolence of heart, vigorous intellectual powers, and high literary attainments.⁵⁶

The annual reports to the legislature as submitted by Hawley give some indication of the difficulties which he encountered in the administration of the law. The first report in 1814 advised the legislators that

although no official returns have been received from which an estimate might be formed of the beneficial operation of the act, yet satisfactory evidence has been obtained, that in many cases its operation has been prevented by the refusal, or neglect of the

⁵⁴John V. L. Pruyn, "Remarks on the Life and Character of the late Gideon Hawley, LL. D." Reprint from the Proceedings of the Convocation of the University of the State of New York (Albany: no publisher given, 1870), pp. 1-2.

⁵⁵Ibid., p. 2.

⁵⁶Hammond, op. cit., Vol. I, p. 346.

towns to comply with its provisions. . . .⁵⁷

The report also pointed out that there were certain imperfections in the law which ought to be remedied. In one section, while the law seemed to contemplate that the county treasurer should receive and apply the state funds, no penalty was prescribed for his failure to do so.⁵⁸ Another section was so worded as to leave open the possibility that if one town met the requirements as to school taxation, it might conceivably receive the full county quota if all other towns failed to qualify, and it might be forced to equal this sum by taxation.⁵⁹ Hawley pointed out further that the authority given the town commissioners to erect or alter districts might be abused, and that the law did not constitute the trustees of a district a corporation in the sense of ability to hold title to district property.⁶⁰ Also, the provision that the district tax was to be levied on the basis of the preceding town tax might operate to exempt from taxation for the current year, at least, persons who had not paid the previous town tax.⁶¹ Still other sections needing revision referred to the possible personal liability

⁵⁷New York (State), Senate Journal, 1814 (Albany: H. C. Southwick, for S. Southwick), pp. 77-78.

⁵⁸Ibid., p. 78.

⁵⁹Ibid., p. 78.

⁶⁰Ibid., pp. 78-79.

⁶¹Ibid., p. 79.

of trustees for the wages of teachers, the requirement of giving notice in writing to all the residents of the district when a meeting was to be held, and the need of defining the requisites of a legal district meeting.⁶² Hawley further proposed that the law be so amended as to require the boards of supervisors to levy the tax provided in the law.⁶³

Evidently the legislature considered Hawley's points of criticism to be well taken, for an act passed April 15, 1814, re-enacted the common school law with the modifications suggested:

1. The county treasurer was required to apply for and receive the state money.⁶⁴

2. Limitation was placed on the power of the town commissioners to alter districts. No changes could be made between April 15 and June 15 of any year without permission of the trustees concerned.⁶⁵

3. Town quotas of school money not claimed were to be retained by the county treasurer and added to the apportionment for the next year.⁶⁶

4. An apparent effort to prevent omission of inhabitants from payment of taxes as indicated in Hawley's criticism was found in instructions to trustees to "raise the sum voted for . . . on all the taxable inhabitants residing in such district, agreeable to the assessment of the last

⁶²Ibid., p. 79.

⁶³Ibid., p. 80.

⁶⁴New York (State), Session Laws, 1814 (Albany: Websters & Skinner), p. 211.

⁶⁵Ibid., p. 214.

⁶⁶Ibid., p. 211.

preceding town tax, and on other taxable inhabitants in such district on the last assessment roll."⁶⁷

5. To clear the question of the liability of trustees for the payment personally of teachers' wages, the revised law declared it to be "the duty of the trustees . . . to pay the wages of such teachers out of monies which shall come into their hands . . . so far as . . . sufficient for that purpose. . . ."⁶⁸

6. The requirement that all inhabitants receive a written notice of district meetings was replaced by authority to read the notice, and leave written notice only when the voter was not at home.⁶⁹

7. Powers of the district meetings were defined in detail in Section XIII of the act. Further protection for the district is found in the provision "no district meeting held as aforesaid, shall be taken or deemed illegal for want of due notice to any of the said freeholders or inhabitants of such district: Provided, The omission to give such notice be not willful and designed."⁷⁰

8. The supervisors of each county were required to levy the tax on towns, equal to the amount apportioned by the state, the levy to be made at the annual meeting. Towns were permitted to raise as much as three times as much as the state provided, to be levied by the board of supervisors.⁷¹

An illustration not only of a point of view with regard to the compulsory features of the law, but of Hawley's reaction to such an attitude is seen in a special report which he submitted to the legislature at a fall session in 1814. The legislature had received and had

⁶⁷Ibid., p. 217.

⁶⁸Ibid., p. 218.

⁶⁹Ibid., p. 215.

⁷⁰Ibid., pp. 215-216.

⁷¹Ibid., p. 202.

referred to him a petition from Hezekiah Pettit and other residents of the town of Lexington praying that they be relieved from the provisions of the common school act requiring the payment of taxes for support of schools. The exemption was asked on the grounds that the petitioners' rights as free citizens were being infringed upon, that the taxes were imposed for purposes beyond the proper sphere of legislation, and that the taxes were assessed on those who had no concern with common schools. Therefore the petitioners were being burdened without return of benefit.⁷²

In a vigorous statement, Hawley declared that

It is neither matter for surprise nor disappointment, that this class of men should complain of a law which requires them to contribute for the education of their neighbors' children. No other result was ever expected from them.⁷³

They assume that because they have no children they have no interest in education. But the legislature realized the fallacy of this argument; their journals and law books attested their acceptance of the principle that

all men are alike interested in the establishment, support and encouragement of Common Schools. . . . For whoever contributes to the diffusion of knowledge among his neighbors, although he may not have any children of his own to participate in it, will nevertheless find his account in the greater security of peace and

⁷²New York (State), Senate Journal, 1815 (Albany: H. C. Southwick, for S. Southwick), p. 180.

⁷³Ibid., p. 180.

prosperity of his neighborhood.⁷⁴

Those less able have always been the objects of concern of the law, and since the exactions are not burdensome, the tax was merely an extension of the principle that the lesser is subservient to the more important interests of society. If the tax portion of the act were repealed common schools would languish. A neighboring state supports schools by taxes, in spite of a large school fund, to the amount of twenty cents on one hundred dollars, while the tax complained of in this state amounted to less than one cent and seven mills on the same amount. It was his opinion, therefore, that "the prayer of the petitioners is not reasonable, and ought not to be granted."⁷⁵

Several incidents during this period are interesting as indicating the attitude of the time toward financial aid for education. In Hawley's report for 1816, covering the operations of the previous year, occurs this passage:

The beneficial operation of the act has also been visible in the pecuniary aid which many schools have derived from it. A perpetual annuity of twenty dollars, which is the average sum received by each district under the act, ought not to be considered a trifle unworthy of any account.⁷⁶

⁷⁴Ibid., pp. 180-181.

⁷⁵Ibid., p. 181.

⁷⁶New York (State), Assembly Journal, 1816 (Albany: J. Buel), p. 495.

Later in the same report is a reference to his awareness of his duty to provide advice and direction to the schools in methods and course of studies,

and the necessary instructions on these subjects would be cheerfully prepared and communicated to the several schools . . . if the Legislature should think proper to provide for the expense of printing and publishing. . .⁷⁷

In the same year a section of an act passed by the legislature allowed the superintendent postage for his official letters, after three years incumbency in the position.⁷⁸

Two years later the legislature allowed him an increase in salary from \$400.00 to \$700.00, the initial \$100.00 increase having been provided by the act of 1814.⁷⁹

In 1819, following recommendations by Hawley in his report of the previous year, the legislature enacted a revision and consolidation of the common school law.⁸⁰ Here again, the influence wielded by Mr. Hawley is evident in the degree to which the rather minor revisions of the act conform to his suggestions, and in the statement by Randall that "so great was the public confidence" in Hawley,

⁷⁷Ibid., p. 496.

⁷⁸New York (State), Session Laws, 1816 (Albany: Websters & Skinner), p. 293.

⁷⁹Ibid., p. 295.

⁸⁰New York (State), Session Laws, 1819 (Albany: J. Buel), pp. 187-208.

that he was invited to be present and explain his recommendations.⁸¹ The legislature underscored this public confidence by an act of April 10, 1820, allowing Hawley another \$400.00 increase in salary.⁸²

Growth of the common school system under Hawley's administration is shown in Table I below.

TABLE I

A COMPARATIVE VIEW OF THE RETURNS OF COMMON SCHOOLS
FOR DIFFERENT YEARS SINCE 1816*

Year	Total Number Districts	Number Districts Reporting	Amount of State Aid (Dollars)	Number Children Taught	Total Children 5-15 yrs.
1816	2755	2631	\$55,720	140,106	176,449
1817	3713	2873	64,634	170,386	198,440
1818	3264	3228	73,235	183,253	218,969
1819	4614	3844	93,010	210,316	235,871
1820	5763	5118	117,151	271,877	302,703
1821	6332	5489	146,418	304,559	317,633

*Information from Annual Reports of Superintendent of Common Schools for years indicated.

In Table I the most noticeable fact is that the number of children taught increased more rapidly than the number of children of school age represented in the population. In 1816 roughly fourteen out of every seventeen

⁸¹Randall, 1871, op.cit., pp. 33-34.

⁸²New York (State), Session Laws, 1820 (Albany: J. Buel), p. 113.

children were in school at some time during the school term, while in 1821 the proportion was approximately thirty out of thirty-one children. This percentage is particularly interesting in view of Superintendent Rice's estimate of 1864 that only fifty-eight per cent of children were in school as a result of the operation of the rate-bill system. The difference in percentages may also be due in part to operation of social and economic factors.

The report made to the legislature on February 21, 1821, was Hawley's last as superintendent of common schools. In the course of a political struggle between the rival forces of Martin Van Buren and De Witt Clinton, the Van Buren party took control of the Council of Appointment and began a wholesale dismissal of judicial, administrative and military officials.⁸³ Hawley was swept from office with the rest, and in his place was put an Albany lawyer named Welcome Esleeck.⁸⁴ While apparently attempting to condone on political grounds the action of the council, Hammond has this to say of the removal of Hawley:

But there is one act of this Council, which, in my judgment admits of no reasonable apology--the removal of GIDEON HAWLEY from the office of superintendent of Common Schools. Mr. Hawley had, by great skill and labor, formed our Common School system. All who know him, . . . admit . . . his peculiar fitness, for that

⁸³William M. French, "Gideon Hawley" in New York History, XX (April, 1939), 158.

⁸⁴Hammond, op. cit., Vol. I, p. 571.

office. On the able and faithful discharge of his duties depended not the temporary success of this or that party, but, in a considerable degree, the weal or woe of the rising generation. . . .⁸⁵

Esleeck's tenure of office was to be brief. An act of the legislature passed April 3, 1821, contained the following succinct provision:

And be it further enacted, that the office of superintendent of common schools be, and the same is hereby, abolished, and the duties heretofore required of him shall be performed by the secretary of state.⁸⁶

Thus ended, with the abrupt removal from the educational scene of Esleeck, who was characterized by Hammond as a "mere collecting attorney,"⁸⁷ the initial and perhaps critical phase of common school education in New York. In his earlier work Randall pays tribute to Hawley's skill and perseverance in organizing and supervising the common school system:

To no individual in the state, are the friends of common school education more deeply indebted for the impetus given to the cause of elementary education in its infancy, than to Gideon Hawley. . . . The foundations of a permanent and noble system of popular education were strongly and securely laid by him. . . .⁸⁸

⁸⁵Ibid., Vol. I, pp. 570-571.

⁸⁶New York (State), Session Laws, 1821 (Albany: William Gould & Co.), p. 249.

⁸⁷Hammond, op. cit., Vol. I, p. 571.

⁸⁸Randall, 1851, op. cit., pp. 18-19.

In this fashion we have seen the establishment of a system of common school education, in three separate phases. First, the responsibility was left entirely upon the local community, with no aid and no legal basis. There followed a short-lived period of state assistance to local education, with no broad basis of state supervision or prescription of functions. After another period in which the weight of support lay entirely upon the local community, the state legislature established a relatively strong system of common school education, with a state supervisory officer, and legally prescribed functions and duties for a local hierarchy of school officials. The eight years of Gideon Hawley's tenure of office witnessed a steady growth in the number of schools and the total number of pupils attending, as well as in the amount of state support. During this time the legislature twice revised the basic act to eliminate faults and to strengthen the legal foundations. Further developments in this story will be the subject of the next chapter.

CHAPTER III

DEVELOPMENT OF SUPERVISION

During the period of twenty-five years following the abolition of the superintendency of common schools, and while the position was combined with the secretaryship of state, developments within the system looked chiefly to strengthening the financial support of education, to the better supervision of local schools, and to the provision of an adequate number of better-trained teachers. During the forties and early fifties, however, the question of free schools became a perennial and explosive issue which dominated the state educational scene. In this chapter we shall consider the development of supervision. In a later chapter we shall trace the rise of and the temporary setback to the free school movement. In this discussion, the measures for financial support will be considered as the prelude to the free school movement, since the two phases are closely related.

We have seen (cf. supra, p. 36) that the school law of 1812 had provided for the election in each town of three commissioners and not over six inspectors, who were to have some supervisory powers over the schools. With the amendments included in the revised common school act of April, 1814,

these officials continued to exercise a degree of control over the local districts during the major portion of this period. The commissioners were the sole means of contact between the districts and the superintendent ex officio in Albany.

Suggestion for the improvement of control over the local districts resulted first from fear that the local authorities were "subverting" the means provided for support of schools. In his annual message of 1826 Governor DeWitt Clinton pointed out that the superintendent of common schools lacked both the time and the authority to visit schools in person, and recommended that the legislature provide "visitorial authority" to detect abuses in the application of school funds, to examine methods of instruction and to suggest improvements.¹

In the same year another weakness of the system was revealed in a passing statement in the report of John C. Spencer for the literature committee of the Senate, to which had been referred the section of the executive message mentioned in the preceding paragraph. Speaking of the effect of incompetent teachers, the report pointed out that the teachers were licensed by town inspectors,

themselves generally and necessarily incompetent to

¹New York (State), Messages from the Governors, ed. by Charles Z. Lincoln (Albany: J. B. Lyon Co., 1909), Vol. III, p. 117.

determine upon /sic/ the qualification of candidates, and willing to sanction such as the trustees feel able or disposed to employ. . . .²

A year later the first report of Azariah C. Flagg as superintendent of common schools suggested that

. . . the system of inspection might be improved by the appointment of competent persons to visit the schools of a county or a larger district, to investigate the mode of instruction, the qualifications of teachers, and the application of the public money, and to inquire into all the operations of the school system. Such inspectors would aid the schools by their advice, and add to the stock of intelligence on the subject of education, by collecting information in relation to the condition of the schools and the manner in which they are conducted. . . .³

It was, however, to be fourteen years before this suggestion received legislative approval.

In May, 1835, a report from the assembly committee on colleges, academies and common schools⁴ was accompanied by a bill proposing to establish a separate department of public instruction under an official to be called the secretary of public instruction. He was to be appointed for a three-year term by the legislature and to serve as ex officio chancellor of the University of the State of New

²New York (State), Senate Journal, 1826 (Albany: E. Croswell), p. 157.

³New York (State), Assembly Journal, 1827 (Albany: E. Croswell), Appendix A, p. 4.

⁴New York (State), Assembly Journal, 1835 (Albany: E. Croswell), p. 859.

York. He was to have supervision over the common schools as well as over colleges and academies.⁵ Action, however, was postponed.⁶

This proposal two years later drew the disapproval of Governor William Marcy, who recommended instead the provision of an additional deputy to assist the secretary of state in his work as superintendent of common schools. The governor also advised transference to the superintendent of common schools of the general supervision of the academies, including the departments for training of teachers. Therein he hinted at one of the major sources of conflict between the regents and the superintendent of public instruction, which will be the subject of the later chapters of this study.⁷ This suggestion was partially implemented by a provision of chapter 241, laws of 1837, requiring institutions in which teachers of common schools were or should be instructed, to make an annual report to the superintendent of common schools. The law also required that with respect to organization and management of the training departments and the course of study offered, the schools should be governed by such directions as the superintendent should

⁵New York (State), "Report of Committee on Colleges, Academies and Common Schools on . . . Communications /relating/ to public instruction," Assembly Document No. 382, 1835 (Albany: E. Croswell), pp. 7-8.

⁶Assembly Journal, 1835, p. 924.

⁷Messages from the Governors, Vol. III, pp. 614-615.

issue.⁸

Governor William H. Seward's annual message of January 1, 1839, described "visitation" as "the very principle of life to all seminaries of instruction."⁹ The message pointed out that the regents were by virtue of their office visitors of the colleges and academies, and the town inspectors served the same function for common schools.

How utterly this duty of visitation has fallen into disuse, your own observation and the public voice abundantly testify. The office of inspector of common schools is unhappily always involved in the political organization of parties. Generally it falls, by custom strong as law, upon young men engrossed by private affairs. Its duties confer, in public estimation, nothing of the dignity, and maintain little of the importance, which would induce their faithful execution.¹⁰

Governor Seward's remedy for this situation envisaged a department of education with a superintendent appointed by the legislature, and a board of education composed of delegates from subordinate bodies in the counties. Supervision of the schools would be exercised by the county boards, with general powers of regulation possessed by the state board of education. Of these, only the superintendent would be under salary, and the terms of office should be

⁸New York (State), Session Laws, 1837 (Albany: E. Croswell), p. 231.

⁹Messages from the Governors, Vol. III, p. 743.

¹⁰Ibid., p. 743.

long enough to insure competence.¹¹

Almost on the heels of this pronouncement by Governor Seward came the appointment on February 4, 1839, of John C. Spencer of Ontario county as secretary of state and ex officio superintendent of common schools. Spencer promptly secured the passage of a law authorizing him to appoint county boards of visitors, who were to serve without pay and to visit the schools in each county, reporting to the superintendent suggestions for their improvement.¹² The boards of visitors, who were according to Randall appointed from among the most intelligent citizens of the counties without regard to party,¹³ recommended with much unanimity the establishment of a system of county supervision under the direction of the state superintendent.¹⁴

On April 13, 1840, Spencer sent to the legislature an abstract of the reports of the county boards of visitors. The report pointed out that at least half of the schools in

¹¹Ibid., p. 744.

¹²New York (State), Session Laws, 1839 (Albany: E. Croswell), p. 304.

¹³Samuel Sidwell Randall, History of the Common School System of the State of New York, from its origin in 1795 to the present time (New York: Ivison, Blakeman, Taylor & Co., 1871), p. 101.

¹⁴New York (State), "Communication from the Superintendent of Common Schools transmitting the reports of the visitors /sic/ of Common Schools," Assembly Document No. 307, 1840 (Albany: Thurlow Weed), pp. 6-10.

the state are not visited at all by the town inspectors, and that in many cases where there was an inspection it was "slight and superficial" and resulted in no benefit. Many of the county boards of visitors recommended the abolition of the office, and the superintendent was "constrained" to agree with them.¹⁵

Spencer's own recommendations, accompanying the report, exhibited the forcefulness and progressive thinking which brought forth paeans of praise for him from Randall, who served as his deputy, and as acting superintendent after Spencer was appointed Secretary of War in President Tyler's cabinet in October, 1841. The recommendations included (1) appointment of deputy superintendents in each county; (2) extension of teacher training in academic departments; (3) establishment of an educational publication to serve the interests of the schools; (4) uniform textbooks; (5) vaccination of children attending public schools; (6) instruction in vocal music; (7) extension of the terms of commissioners and trustees; (8) voluntary organizations of county boards of education, and town, county and state associations for improvement of common school education; and (9) establishment of graded schools in larger towns and cities, under local superintendents.¹⁶

¹⁵Ibid., p. 5.

¹⁶Ibid., pp. 10-14.

On April 15, 1840, the assembly committee on colleges, academies and common schools reported a bill embodying some of the suggestions made by Spencer.¹⁷ This passed the Assembly on May 12¹⁸ but died in the Senate.¹⁹

In the session of 1841 amendments to the second title of the fifteenth chapter of the revised statutes provided the suggested changes in the method of supervision. Section six of the law reduced the number of town inspectors to two and provided that these two could legally certify a teacher.²⁰ A more extensive supervisory arrangement was established in Section 26, which authorized the election by the county boards of supervisors, of a county deputy superintendent, or two in counties having more than two hundred schools. The two-year tenure of office could be terminated by the supervisors. In addition to specific powers such as visiting and inspecting schools, "inviting the town inspectors to do likewise," examining the management, course of study, text books, buildings and facilities, advising with trustees, licensing and annulling certificates of teachers, etc., the

¹⁷Ibid., pp. 5-9.

¹⁸New York (State), Assembly Journal, 1840 (Albany: Thurlow Weed), p. 1427.

¹⁹New York (State), Senate Journal, 1840 (Albany: Thurlow Weed), pp. 561-577. No action after bill committed to third reading, May 13.

²⁰New York (State), Session Laws, 1841 (Albany: Thurlow Weed), p. 237.

county deputy was clothed by clause three of the section with general power

to promote sound education, elevate the character and qualifications of teachers, improve the means of instruction, and advance the interests of the schools committed to his charge.²¹

The county deputies might resign their offices by letter to the county clerk, who was empowered to fill the vacancy until action could be taken by the supervisors. They were subject to the authority of the state superintendent of common schools, to whom they were required to make reports. Their salary was a per diem amount of two dollars limited to a yearly maximum of five hundred dollars, half to be paid by the county and half by the state.²²

The act also provided for an appropriation to supply to every school district for three years a copy of the successive issues of the District School Journal, then edited by Francis Dwight of Geneva.²³

The report of the superintendent of common schools for 1842 indicated that reports to date showed that county superintendents had been appointed in every county except Lewis, Putnam, Richmond, and Wyoming, and that in Buffalo, Rochester, Brooklyn, Troy, Utica, and Hudson the schools

²¹Ibid., pp. 243-244.

²²Ibid., pp. 244.

²³Ibid., p. 242.

had been organized as city superintendencies under special law.²⁴

In February of that year the vacancy then existing in the superintendency ex officio was filled by the appointment of Samuel Young of Saratoga. Young came to the office with a definite opinion that the system of county superintendency was impolitic and inefficient, and with a fixed determination to eliminate it. However, after attending the annual convention of the county superintendents in Utica, which Randall says he was induced to do with much difficulty,²⁵ and after hearing the discussions which marked the sessions, he changed his opinion and became a strong and enthusiastic supporter of county supervision.²⁶

Young's point of view was apparently shared by many others, for petitions began to appear in the legislative halls, demanding the repeal of the portions of the law of 1841 which had provided for the county superintendents, declaring that the office was "uncalled-for, unnecessary, useless and expensive," that the town inspectors could perform the duties as well, and that the money so spent could

²⁴New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 12, 1842 (Albany: Thurlow Weed), pp. 12; 25-29.

²⁵Randall, 1871, op. cit., p. 140.

²⁶New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 14, 1843 (Albany: Carroll & Cook), pp. 32-33.

better be used for well-qualified teachers.²⁷ The petitions, however, were reported on adversely by the assembly committee on colleges, academies, and common schools on April 2,²⁸ and the house agreed to the report.²⁹ The committee report, known as the Maclay report, asserted that the exposure of the defects and evils of the schools pointed to the need for better teachers;³⁰ that education increased the earning power of workers;³¹ and that failure of the system at any point should be charged to injudicious appointments rather than to failure of the law.³²

Secretary Young's report on common schools for 1843 dwelt at length on the weaknesses of the common school system,³³ which will be touched upon hereafter, and declared that

county superintendents properly qualified for the discharge of their functions, possessing a competent

²⁷New York (State), "Report of Committee on Colleges, Academies and Common Schools on petitions for repeal of act /directing/ appointment of Deputy Superintendents," Assembly Document No. 168, 1842 (Albany: Thurlow Weed), p. 2.

²⁸Ibid., pp. 7-8.

²⁹New York (State), Assembly Journal, 1842 (Albany: Thurlow Weed), p. 748.

³⁰Ibid., p. 5.

³¹Ibid., p. 7.

³²Ibid., pp. 7-8.

³³New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 14, 1843 (Albany: Carroll & Cook), pp. 23-26.

knowledge of the moral, intellectual and physical sciences, familiar with all the modern improvements in elementary instruction, and earnestly intent on elevating the condition of our common schools can do more to accomplish this desirable result than all the officers connected with the system.³⁴

Among his recommendations were included suggestions that the town commissioners and inspectors of schools be abolished, and a town superintendent be substituted; and that the appellate jurisdiction in local school disputes, previously vested in the state office, should be put in the hands of the county superintendents with right of further appeal to Albany.³⁵

During that session of the legislature the suggestions made by Young were for the most part included in a measure enacted into law, which abolished the town commissioners and inspectors, and placed their duties in the hands of an annually elected town superintendent, who was to be bonded for the accurate performance of his duties, and was to receive the munificent salary of a dollar and a quarter per day for time "necessarily spent in discharge of duties."³⁶ The act also provided that there should be two county superintendents in all counties having more than one hundred and fifty districts, and made the county superintendent removable

³⁴Ibid., p. 35.

³⁵Ibid., p. 36.

³⁶New York (State), Session Laws, 1843 (Albany: C. Van Benthuyssen & Co.), p. 163.

by the superintendent of common schools instead of by the board of supervisors. The law forbade payment of the state's share of the superintendent's salary unless an appointment had been made to the position, and unless the reports from the county were filed as required. Appellate jurisdiction was vested in the county superintendent. General licenses for teaching issued by the county superintendent were to be valid anywhere in the county, while those issued by the town superintendent, or special licenses, were to be acceptable only in the town in which issued. The state superintendent on the recommendation of the county superintendent, might grant an individual a license valid anywhere in the state.³⁷

Both the annual message of Governor William C. Bouck and the common school report of Secretary of State Young for 1844 refer in complimentary terms to the results of this act. The governor spoke of the "general approbation and concurrence" with which the new form of supervision was met,³⁸ and the secretary wrote enthusiastically of better prepared teachers, demolition of barriers between districts, greater interest in schools and school visitation by parents, and more satisfactory exertions on the part of the county superintendents.³⁹

³⁷ Ibid., pp. 164-167.

³⁸ Messages from the Governors, No. IV, pp. 66-67.

³⁹ New York (State), "Report of Superintendent of

During the following year the county superintendents were increasingly on the defensive in some sectors of the state. In his annual report for 1845 Secretary of State Benton took occasion to come to their defense, calling attention to the improvement in the standards of education in common schools, and an increase in public interest in education.

Seventy county officers . . . distinguished for their devotion to the cause of education, and for their scientific attainments and moral worth, acting under the immediate direction and supervision of the State Superintendent, . . . and operating . . . through the agency of the trustees upon the teachers of nearly eleven thousand school districts, must necessarily exert a powerful influence in carrying forward the spirit of improvement, in diffusing knowledge and in promoting the advancement of sound learning.⁴⁰

The Governor's message of January 7, 1845, had mentioned the fact that the

substitution of a county superintendent of schools in the place of the former town commissioners, has given rise to discontents in some of the counties.⁴¹

In April the state convention of county superintendents, meeting at Syracuse, discussed the movement to abolish the

Common Schools," Assembly Document No. 34, 1844 (Albany: Carroll & Cook), pp. 18-19.

⁴⁰ New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 30, 1845 (Albany: Carroll & Cook), pp. 10-11.

⁴¹ Messages from the Governors, Vol. IV, p. 115.

office.⁴² Secretary of State Nathaniel S. Benton, addressing the convention, declared that he favored the continuance of the present system, and appreciated fully the importance of the services rendered by the superintendents. He declared that he understood that memorials from some fourteen counties urged the abolition of the position, that he believed the opposition to be largely political, and that the superintendents should be doubly prudent in carrying out their duties.⁴³ In July the first state teachers' convention in the state, also in Syracuse, declared in a resolution for the continuation of the county superintendents.⁴⁴

It might be of interest at this point to insert a survey of some of the prevailing conditions in common school education found by the county superintendents to exist a century ago. Statistics for this summary were taken from the report covering the year 1844, and communicated to the legislature in 1846.

In the 11,000 school districts, 216,380 pupils were instructed for less than two months, and only 147,000 for more than four months, and only 46,018 for eight months or more.⁴⁵ The county superintendents personally visited

⁴²Randall, 1871, op. cit., p. 207.

⁴³Ibid., p. 207.

⁴⁴Ibid., p. 212.

⁴⁵New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 30, 1846 (Albany: Carroll & Cook), pp. 7-8.

9,306 common schools, finding the following conditions among others: 7,566 buildings were of framed wood, 567 of brick, 519 of stone and 552 still were log buildings. Of these 2,760 were declared to be in a bad condition of repair, and 2,700 in ordinarily good condition. No playground space was found in 6,462 districts. Nearly 5,000 schools had absolutely no privy accommodations, and 2,000 had but one for both girls and boys.⁴⁶ Average wages of male teachers were \$13.37 per month in winter and \$14.25 in summer; and of women teachers, \$7.00 and \$6.00.⁴⁷ Of a total of \$1,087,984 spent for teachers' wages, over \$458,000 was obtained from rate bills charged to parents.⁴⁸

At a special session of the legislature in November, 1847, the foes of county supervision accomplished the passage of a measure abolishing the office.⁴⁹ According to Randall, four principal factors contributed to the passage of the act: (1) injudicious selection of appointees by the supervisors; (2) appointment on the basis of political influence; (3) appointment of persons wanting in ability and moral character; and (4) objection on the part of the local units to paying the required half of the superintendent's

⁴⁶Ibid., p. 14.

⁴⁷Ibid., p. 17.

⁴⁸Ibid., pp. 28-29.

⁴⁹New York (State), Session Laws, 1847 (Albany: Charles Van Benthuyssen), Vol. II, p. 456.

salary.⁵⁰

This result had been achieved in the face of powerful support from many quarters for county supervision. In 1843 and again in 1845 the assembly committee on colleges, academies, and common schools had investigated the opposition and had reported to the Assembly in favor of retention of the system.⁵¹ In the latter year the report had stated that

no benefit would be likely to accrue from abolishing the office . . . which would not be more than counter-
vailed /sic/ by the evils that would necessarily ensue.
. . . These officers have . . . done more for the cause
of primary education within three years, than had been
done for half a century previously.⁵²

In his annual report for 1845 to the Massachusetts State Board of Education Horace Mann had declared,

The great State of New York, by means of her County Superintendents, State Normal School and otherwise, is carrying forward the work of public education more rapidly than any other State in the Union, or any country in the world.⁵³

Addressing the state convention in Syracuse in April of

⁵⁰Randall, 1871, op. cit., pp. 232-233.

⁵¹New York (State), "Report of Committee on Colleges, Academies and Common Schools on petitions for and remonstrances against repeal of . . . act /directing/ appointment of Deputy Superintendents," Assembly Document No. 100, 1843 (Albany: Carroll & Cook), p. 17.

⁵²Ibid., pp. 12, 15.

⁵³Cited in Randall, 1871, op. cit., p. 235.

that year, another of the great personages in American education, Henry Barnard, had termed the system of county superintendence the most admirable feature of the New York system.⁵⁴

Responding to a request for his views, John C. Spencer, in a letter dated March 24, 1846, declared that all methods of securing adequate supervision over schools, other than by county supervision, had failed from the gross neglect of the town inspectors, who were themselves incompetent to carry out their duties.⁵⁵

Results of the abolition of the county superintendency were thus listed by Randall: (1) lack of connecting link between districts and the state superintendent; (2) interference with means of settling controversies; (3) lack of check on misuse of public funds; (4) lack of source of information concerning details of school operations.⁵⁶ In his annual report for 1847, Secretary Benton pointed out the impossibility of supervising the local schools from the superintendent's office.⁵⁷ Secretary Christopher Morgan in 1849 renewed the attack on the friends of abolition, declaring that an intermediate officer was needed between the

⁵⁴Ibid., p. 235.

⁵⁵Ibid., p. 237.

⁵⁶Ibid., pp. 239-240.

⁵⁷New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 5, 1848 (Albany: Charles Van Benthuysen), p. 62.

state superintendent and the nine hundred town superintendents. He asserted,

The territory is too large, its subdivisions too many, its relations too diverse, the local offices too many, and the interval between the department and them too wide, to permit that actual and minute supervision which is necessary to an efficient administration of the school laws.⁵⁸

Morgan recommended to the legislature passage of one of two bills, one repealing the act of 1847 and restoring the county superintendents, and making them elective; and the other providing for election of a superintendent in each assembly district, except in areas having city superintendents.⁵⁹ In spite of support from Governor Hamilton Fish, expressed in his messages of 1849⁶⁰ and 1850,⁶¹ the legislature took no action on the proposals which Morgan renewed and reiterated in his report of 1850.⁶²

Morgan also urged the establishment of some form of intermediate supervision in the report of 1850, pointing out again the difficulty of corresponding with the nine hundred local officials, and of obtaining the necessary statistical

⁵⁸New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 20, 1849 (Albany: Weed, Parsons & Co.), p. 40.

⁵⁹Ibid., p. 40.

⁶⁰Messages from the Governors, Vol. IV, p. 429.

⁶¹Messages from the Governors, Vol. IV, p. 479.

⁶²New York (State), "Report of Superintendent of

information needed for the business of the department.⁶³ He renewed his recommendation that a superintendent should be elected for each assembly district, with powers similar to those formerly held by the county superintendents.⁶⁴ He repeated his arguments almost verbatim in his report of 1851.⁶⁵

A resolution of the Assembly passed July 10, 1851, authorized the governor to appoint a suitable person as a commissioner to prepare a common school code for the state. In a letter of August 4, Governor Washington Hunt notified Samuel S. Randall of his appointment,

in consideration of the many services you have rendered to the cause of common school education in this State, and of your eminent qualifications for the discharge of the duty.⁶⁶

Randall's report was a comprehensive document running to forty pages, and the accompanying school code included forty-seven more. He proposed three changes in the then existing system, which he had incorporated in the proposed

Common Schools," Assembly Document No. 50, 1850 (Albany: Thurlow Weed), pp. 11-12.

⁶³Ibid., p. 10.

⁶⁴Ibid., p. 11.

⁶⁵New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 21, 1851 (Albany: Charles Van Benthuyssen), pp. 8-9.

⁶⁶New York (State), "Report of Commissioner for Codifying the . . . law relating to common schools," Assembly Document No. 21, 1852 (Albany: C. Van Benthuyssen), p. 5.

code:

1. Separation of the office of superintendent of common schools from that of secretary of state, and establishment of a separate and distinct department.⁶⁷

Randall's report asserted that this change was "not only . . . imperatively required by considerations of public policy, but . . . fully in accord with public sentiment."⁶⁸ He pointed out that since the office of superintendent had been placed upon the secretary of state, the latter's duty had been increased to include obligations as commissioner of the land office, of the canal fund and the canal board; trustee of the state library, of the capitol and other state buildings; and regent of the university. At the same time the number of school districts in the state had grown from seven thousand to twelve thousand, and the number of children under instruction from three hundred forty thousand to nearly eight hundred thousand; the amount of public money apportioned had increased from sixty thousand dollars to nearly a million dollars.⁶⁹ The duties had furthermore multiplied in consequence of the increase in the number of appeals, the lack of an intermediate officer to communicate information to the individual districts, and

⁶⁷Ibid., p. 8.

⁶⁸Ibid., p. 8.

⁶⁹Ibid., p. 9.

the additional work required from the apportionment of the eight hundred thousand dollars state tax.⁷⁰ Said Randall,

Neither public policy nor a just regard to those considerations which should actuate the Legislature in the distribution of civil employments, require that an unnecessary and onerous accumulation of duties should be devolved upon any public officer.⁷¹

2. Substitution of a permanent mill tax upon all taxable real and personal property in the state, in lieu of the present eight hundred thousand dollar state tax. This will be taken up in chapter V.

3. Restoration of the office of county superintendent, in a modified form, subject to restrictions and limitations dictated by experience "is . . . absolutely indispensable to the efficient administration of the common school system of the State."⁷² The result of the establishment of the county system of supervision, Randall's report asserted, was thorough and universal inspection of the schools by the county superintendents, who

. . . personally examined the condition of every school . . . , ascertained the qualifications of the teacher, his mode of instruction, government and discipline, and the progress made by the pupils; . . . pointed out such defects as . . . demanded reformation; and by personal appeals, . . . lectures and public addresses, enlisted the energies and affections of

⁷⁰Ibid., pp. 9-10.

⁷¹Ibid., p. 11.

⁷²Ibid., p. 17.

parents and residents of the district in the welfare and improvement of the school. . . . He enquired into the administration of the affairs of the district, counselled and advised with its officers, inspected all its arrangements with regard to . . . suitable school houses, out houses, play grounds, scientific apparatus, text books, maps, globes, charts, &c., and . . . adjusted . . . all those controversies . . . and dissensions which prove so fatal to the union and harmony of school districts. . . .⁷³

In placing in the proposed code a provision for county superintendence, Randall attempted to eliminate some of the previous objections by conferring on them the functions of general supervision, cooperation with the town superintendents, and hearing and deciding appeals and controversies, leaving to the county superintendent the decision as to visitation of the schools.⁷⁴ He also proposed that the county superintendent be elected for three years by the town superintendents, meeting as a board for that purpose, that the duties be defined, and the salary be paid from the school fund on certificate of the state superintendent that the duties had been faithfully performed.

Randall's report declared that no change in the fundamentals of the state school system were proposed, but that certain "substantive changes" were suggested:

1. A change of procedure in the formation of new districts, to prevent hasty action or undue influence.⁷⁵

⁷³Ibid., pp. 18-19.

⁷⁴Ibid., p. 31.

⁷⁵Ibid., pp. 32-33.

2. Simplification of qualifications of voters at school district meetings, and extension to include unmarried females liable to taxation for district purposes.⁷⁶

3. Distribution of public money among the districts by the town superintendent according to the number of pupils actually attending and the average time attended.⁷⁷

4. Provision for assumption by the district meeting of costs resulting from suits against district officers, and appeal to the state superintendent if the district did not so vote.⁷⁸

5. Permission for districts to pool their district library funds to establish town libraries.⁷⁹

6. Requirement, not merely direction, that trustees make out tax lists within thirty days.⁸⁰

7. More stringent provisions for accountability of trustees.

8. Provisions to facilitate separation of information from joint districts for reporting purposes.

9. Improvement in provisions relating to teachers' institutes.

⁷⁶Ibid., p. 33.

⁷⁷Ibid., pp. 34-35.

⁷⁸Ibid., pp. 35-36.

⁷⁹Ibid., p. 37.

⁸⁰Ibid., pp. 38-39.

10. Extension of facilities for schools for colored children.⁸¹

In his message of January 3, 1854, Governor Horatio Seymour recommended the separation of the offices of secretary of state and superintendent of common schools.⁸²

Chapter 97 of the session laws, passed March 30, 1854, directed the legislature to elect by joint ballot every three years a superintendent of public instruction to exercise the powers formerly held by the secretary of state as superintendent of common schools. The law allowed the superintendent a salary of two thousand five hundred dollars per year plus three thousand dollars for clerical service. The third and fourth provisions of the law were again indicative of the conflict that was shortly to appear between the new department and the Board of Regents, for in section three the law specified that it should be the duty of the superintendent to visit

as often as may be practicable, such . . . of the common schools, academies and other literary institutions of the state as he may deem expedient. . . .

Section four made the superintendent an ex officio member of the Board of Regents.⁸³

⁸¹Ibid., p. 39.

⁸²Messages from the Governors, Vol. IV, p. 716.

⁸³New York (State), Session Laws, 1854 (Albany: Weed, Parsons & Co.), pp. 230-232.

Under this law, the legislature in April, 1854, elected Victor M. Rice of Erie county as the first superintendent of public instruction, over Samuel S. Randall, who as runner-up was appointed deputy superintendent. Mr. Rice had previously been city superintendent of schools in Buffalo. Randall continued as deputy only until June, when he became city superintendent of schools in New York.⁸⁴

The matter of supervision did not rest at this point, however. In his annual message to the legislature in 1855 Governor Myron H. Clark referred to the necessity of "active and intelligent supervision" in improving the schools.⁸⁵ The first annual report of Superintendent Rice included a recommendation that provision be made for election of school commissioners for each county or assembly district, with a salary large enough to interest capable men who would devote full time to the position.⁸⁶

In April, 1856, the legislature provided by law for the election by the boards of supervisors of the counties comprising each assembly district of a county school commissioner, for the term ending January 1, 1858. If a county included more than one assembly district, there should be a commissioner for each district, but more than one commissioner

⁸⁴Randall, 1871, op. cit., pp. 323-324.

⁸⁵Messages from the Governors, Vol. IV, p. 797.

⁸⁶Randall, 1871, op. cit., pp. 325-326.

was authorized for districts having more than one hundred and forty schools. Beginning with the fall election of 1857, commissioners were to be elected by ballot. They were given the usual powers to visit and examine schools, inquire into management, courses of study, condition of buildings, etc., and make recommendations to trustees. They were forbidden to act as agent for any author, bookseller or publisher, or to receive any commission or reward for recommending any book or apparatus. Powers also included those of examining candidates for teachers' licenses, and of annulling licenses after hearing. They were required to organize teachers' institutes at least once each year, and do anything necessary to promote sound education, and advance the interests of schools. Commissioners were to receive a minimum salary of five hundred dollars payable from the income of the United States Deposit Fund, which might be increased by boards of supervisors from county or district funds.⁸⁷

Under this system Superintendent Van Dyck reported in 1859 that although the assembly district system was somewhat inconvenient, and subjected to some local complaint, it was on the whole productive of "highly beneficial results," and he urged that it be left untouched by the legislature

⁸⁷New York (State), Session Laws, 1856 (Albany: J. Munsell), pp. 285-289.

until its value could be assessed.⁸⁸ Three years later Superintendent Keyes declared that the district system had demonstrated its superiority over the previous arrangement /town superintendents only/ and was growing in public favor.⁸⁹

In this chapter we have traced the development of the idea that the common school system requires not only state supervision, but local control as well. We have seen that in the early days of the common school system, local control meant principally inspection of schools and licensing of teachers, while the role of the state official was limited chiefly to the administration of the school funds and the compilation of reports.

Eventually the common school system outgrew this simple arrangement, and an intermediate unit of supervision became necessary. The result was the establishment of the county deputy system, on such an imperfect basis that its opponents accomplished its abolition. Eventually the system was re-established on a more workable foundation. At the same time the local unit of the township was found to need more efficient supervision, unrelated to the exigencies of politics, which led to the establishment for a time of the

⁸⁸Randall, 1871, op. cit., p. 338.

⁸⁹Ibid., p. 348.

township superintendent in place of the local inspectors and commissioners. Thus by trial and error, and by experimentation, a system of supervision arose, but behind each of the efforts and the errors lay the urgent need for a strong and efficient common school system.

CHAPTER IV

TEACHER TRAINING

We have previously noted (supra, p. 34) the strong statement of the members of the Peck committee concerning the qualifications of teachers. We have also noted in other sections of chapter II the legal requirements of the basic common school acts relating to inspection of schools and the licensing of teachers.

It is obvious that the statement and the legal requirements referred to indicate that the fathers of the common school system were aware that schools could be only as good as the teachers were able to make them. In this chapter we shall observe further efforts in the direction of providing better teachers, as a second important aspect of the history of the establishment of our common school system.

During the formative years of the state school system no provision was made for special education for teachers of common schools. Evidence that some control was necessary is seen in the provision of the revised basic school act of 1814 which required the town inspectors to examine and certify teachers, and gave them power to annul teachers'

certificates on three days' notice to the trustees.¹ Indirect evidence of the prevalent idea that some control was required is found in the provisions for inspection of schools with respect to "the proficiency of the scholars, and the good order and regularity of the schools."²

Governor DeWitt Clinton's annual message of 1825 recommended to the legislature consideration of the education of teachers on the monitorial plan,³ in which he had become very much interested as a result of the arrival in New York of Joseph Lancaster, originator of the system.⁴

Governor Clinton's message of 1826 again urged the need of better educated teachers:

The vocation of a teacher in its influence on the character and destiny of the rising and all future generations, has either not been sufficiently understood or duly estimated. It is or ought to be ranked among the learned professions. With a full admission of the merits of several who now officiate in that capacity, still it must be conceded that the information of many of the instructors of our common schools, does not extend beyond rudimental education. . . . I therefore recommend a seminary for the education of teachers in the monitorial system of instruction. . . .⁵

¹New York (State), Session Laws, 1814 (Albany: Websters & Skinner), p. 221.

²Ibid., p. 222.

³New York (State), Messages from the Governors, ed. by Charles Z. Lincoln (Albany: J. B. Lyon Co., 1909), Vol. III, p. 61.

⁴H. G. Good, History of Western Education (New York: MacMillan, 1948), p. 350.

⁵Messages from the Governors, Vol. III, p. 116.

A committee of the state Senate considered the governor's suggestion and reported that since there were over seventy-six hundred districts in the state, one seminary of instruction for teachers would be insufficient to meet the demand. For the present the academies and colleges must be depended upon to supply the needs of the schools.⁶

The committee report, communicated by the able John C. Spencer, blamed much of the inefficiency in teaching to two conditions: (1) the tendency of trustees to hire the cheapest teacher available, and usually for only a minimum term, and (2) the incompetence of inspectors to license teachers. No remedy was suggested to enforce longer terms, but the committee proposed a local licensing board, possibly on a county basis.⁷ The committee pointed out that the regents distributed the income of the literature fund to the academies on the basis of the number of classical students instead of the number taking English courses. It suggested that if the regents were unwilling to change the basis of apportionment, the legislature might provide funds to place the English students on the same basis as the classical students. It also suggested the possibility of distributing such additional funds according to the number of students who were subsequently licensed as teachers. The committee

⁶Ibid., Vol. III, footnote p. 117.

⁷New York (State), Senate Journal, 1826 (Albany: E. Croswell), p. 157.

further could see no reason why seminaries for "females" should not share alike with those for males in distribution of state funds.⁸

The following year Governor Clinton returned to the attack in his legislative message, reminding the lawmakers that of the eight thousand teachers employed in the state "too many are destitute of the requisite qualifications, and perhaps no considerable number are able to teach beyond rudimental instruction." The governor wondered whether "the minds and morals of the rising . . . generations" should be "entrusted to the guardianship of incompetence."⁹

Nothing resulted from this inquiry in the way of legislation, save a reiteration in the revised code of laws of 1827 requiring commissioners and inspectors of common schools to examine all persons offering themselves as candidates for teaching positions, as to "moral character, learning and ability" and to examine the schools and give advice to trustees and teachers.¹⁰

The report of Secretary of State A. C. Flagg for 1831 expressed his gratification for the "increased attention which men of intelligence are bestowing upon . . .

⁸Ibid., p. 158.

⁹Messages from the Governors, Vol. III, p. 159.

¹⁰New York (State), Session Laws, 1827 (Albany: E. Croswell), pp. 313-314.

common school education."¹¹ He referred to a memorial from citizens of Rochester urging the establishment of a seminary for the training of teachers.¹² Flagg reviewed recent suggestions for teacher training and recommended the conversion of more academies to make them "the nurseries for teachers." He believed that the small number of academy graduates who taught school could be traced to the small salaries paid.¹³

The first definite step in the direction of teacher training was taken in 1834, when the legislature enacted a law authorizing the Board of Regents to distribute to academies under their visitation any of the revenues of the literature fund in excess of twelve thousand dollars, to be used for educating teachers of the common schools.¹⁴

Under this act, a plan was reported to the regents at their meeting of January 8, 1835, and subsequently adopted. An academy was selected in each of the eight senate districts, and "a department engrafted upon it for the education of teachers."¹⁵ Because of the insight offered

¹¹New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 15, 1831 (Albany: E. Croswell), p. 10.

¹²Ibid., p. 10.

¹³Ibid., pp. 12-13.

¹⁴New York (State), Session Laws, 1834 (Albany: E. Croswell), p. 426.

¹⁵New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 6, 1836 (Albany: E. Croswell), p. 41.

into teacher training methods of a century ago, the procedure followed is reported in some detail.

According to the report of the superintendent of common schools, each academy selected received from the literature fund an amount sufficient to purchase the following items of equipment: an orrery /planetarium/, a numeral frame and geometrical solids, a pair of globes, a movable planisphere, a tide dial, an optical apparatus, "the mechanical powers," a hydrostatic apparatus, a pneumatic apparatus, a chemical apparatus, one hundred specimens of mineralogy, an electrical machine, instruments to teach surveying, a map of the United States, a map of New York State, an atlas, a telescope, and a quadrant.¹⁶ In addition, one hundred ninety-one dollars was appropriated for additions to the library of each school. For operation, each school was to receive annually from the literature fund four hundred dollars to pay the salary of a tutor, "which, in addition to the means of the academies, was deemed adequate. . . ."¹⁷

The stated curriculum of the teachers' training course was listed as follows: the English language; writing and drawing; mental and written arithmetic and bookkeeping; "Geography and General History combined"; history of the United States; geometry, trigonometry, mensuration and

¹⁶Ibid., p. 4.

¹⁷Ibid., pp. 41-42.

surveying; natural philosophy and the elements of astronomy; chemistry and mineralogy; constitutions of the United States and of New York State; "Select parts of the Revised Statutes, and the Duties of Public Officers"; moral and intellectual philosophy; and the principles of teaching. The report added that the regents contemplated adding algebra to the list.¹⁸

The term of study included three years, of eight months each, the four months vacation coming in the winter to enable students, if necessary, to teach a district school to supplement their means. Each student was subject to public examination at the end of the term of training.¹⁹

The department was organized in 1835, and to secure some degree of uniformity the principals were invited to meet a committee of the Board of Regents in Albany in September, 1845. The session, lasting several days, and attended by the principals of seven of the eight designated academies, resulted in substantial agreement as to the management of the teacher training departments.²⁰ Superintendent John A. Dix pointed out, however, that the success of the plan to provide adequately trained teachers depended in part upon the willingness of the legislature to provide

¹⁸Ibid., p. 43.

¹⁹Ibid., p. 43.

²⁰Ibid., p. 43.

the means of employment at fair salaries.²¹

The eight originally designated schools included Erasmus Hall Academy, Kings county; Montgomery Academy, Orange county; Kinderhook Academy, Columbia county; St. Lawrence Academy, Potsdam, St. Lawrence county; Fairfield Academy, Herkimer county; Oxford Academy, Chenango county; Canandaigua Academy, Ontario county; and Middlebury Academy, Wyoming county.²² Largely due to the greater cost of living to the students, the department in Erasmus Hall Academy was not successful, and in 1836 it was transferred to Washington Academy, at Salem, Columbia county.²³

When in 1837 the state became the beneficiary of the United States deposit, Governor Marcy recommended in his message that the legislature devote "a liberal portion" of the income of the fund to the uses of the academies, with the purpose of "rendering them more efficient as seminaries for educating common school teachers."²⁴ The following year, chapter 237 of the session laws added the sum of twenty-eight thousand dollars of the income from the United States deposit

²¹Ibid., p. 43.

²²New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 17, 1839 (Albany: E. Croswell), pp. 132-143.

²³New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 6, 1837 (Albany: E. Croswell), p. 22.

²⁴Messages from the Governors, Vol. III, p. 612.

fund to the literature fund, and specified that any academy receiving seven hundred dollars or more from this source must maintain a department for teacher training.²⁵

As noted previously in this chapter, Governor Marcy anticipated the subsequent conflict between the Board of Regents and the superintendent of public instruction with his suggestion that the teacher-training departments, then under the superintendence of the regents, as were the academies in general, be transferred to the jurisdiction of the superintendent of common schools.²⁶

The legislature responded to this suggestion with the passage of an act requiring that

The institutions in which departments for the instruction of common school teachers are or shall be established, shall make to the superintendent of common schools an annual report of the condition of those departments . . . and in respect to the organization and management of the departments and the course of studies therein, the said institutions shall be governed by such direction as he may prescribe.²⁷

Superintendent Dix's report for 1838 continued the campaign for better teaching preparation:

The intellectual condition of every school will be in proportion to the skill and capacity of the teacher.

²⁵New York (State), Session Laws, 1838 (Albany: E. Croswell), p. 223.

²⁶Messages from the Governors, Vol. III, p. 614.

²⁷New York (State), Session Laws, 1837 (Albany: E. Croswell), p. 231.

His ability to teach necessarily assigns the limit, in most cases, to the intellectual improvement of his pupils. A teacher . . . who possesses the requisite learning, zeal and ability to teach, rarely fails to inspire his pupils with his own love of knowledge. . . With such an instructor a school becomes, what justice to our free institutions demands that it should be.²⁸

Superintendent Dix called attention to the increase in the number of teachers being trained in the academies, from 108 in 1835, to 284 in 1837, which was still small in comparison to the number of teachers employed. However, he asserted, the small number enabled these better trained teachers to compete advantageously in the employment market.²⁹ He suggested that the number of academies training teachers be increased to sixteen, or two for each senate district, or possibly three, with an appropriation of five hundred dollars for each school.³⁰

Under the act of 1838, increasing the distribution of funds by the Board of Regents, seven additional teacher training departments were established: Amenia Seminary, Dutchess county; Albany Female Seminary; Troy Female Seminary; Genesee Wesleyan Seminary, Livingston county; Cortland Academy; Rochester Collegiate Institute and Ithaca Academy.³¹

²⁸New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 13, 1838 (Albany: E. Croswell), p. 16.

²⁹Ibid., p. 21.

³⁰Ibid., pp. 21-22.

³¹New York (State), "Report of Superintendent of

Erasmus Hall Academy had established a department in October, 1839, by order of the Board of Regents, but at the time of this report no students were registered.³²

Superintendent John C. Spencer's report for 1840 pointed out the lack of information concerning some of the departments, since the act providing for them imposed no penalty for failure to abide by the terms of the act.³³ He believed, however, that the establishment of the departments had had "a favorable influence on the character and qualifications of teachers." He suggested that a certificate from an academy offering a teachers' training course should entitle the possessor to teach anywhere in the state without further certification.³⁴

A report in 1841 by a committee of two appointed by the superintendent to investigate the training departments for common school teachers, commented favorably on the value of the courses. The Rev. Dr. Potter of Union College, one of the two members, expressed the definite opinion that more benefit would result from the establishment of a normal school in the state capital

Common Schools," Assembly Document No. 120, 1840 (Albany: Thurlow Weed), pp. 90-91.

³²Ibid., p. 16.

³³Ibid., p. 16.

³⁴Ibid., p. 17.

where it could enjoy the supervision of the Superintendent of Common Schools and be visited by the members of the Legislature.³⁵

In his report of that year, however, Spencer expressed the belief that normal schools would be much more expensive to establish, equip and maintain, while accomplishing no more than the academy teacher training departments were achieving at much less cost. He recommended that state aid for teacher training be extended to all academies, and that in counties where no academy existed a normal school might be set up.³⁶

A resolution of the Board of Regents dated May 4, 1841, apportioned three hundred dollars to each of the following academies for maintaining for a period of six months a department for instruction of common school teachers:

Montgomery Academy, Kinderhook Academy, Delaware Academy (Delhi), Washington Academy (Salem), St. Lawrence Academy (Potsdam), Fairfield Academy, Hamilton Academy, Hobart Hall Institute (Holland Patent), Rensselaer Oswego Academy (Mexico), Franklin Academy (Prattsburg), Ithaca Academy, Canandaigua Academy, Cortland Academy (Homer), Middlebury Academy, Rochester Collegiate Institute, and Fredonia

³⁵New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 100, 1841 (Albany: Thurlow Weed), p. 121.

³⁶Ibid., p. 21.

Academy. The Grammar School of Columbia College, Amenia Seminary, Albany Female Academy, Troy Female Seminary, Genesee Wesleyan Seminary and Oxford Academy were required to maintain departments as a result of receiving seven hundred dollars annually from the literature fund.³⁷

Superintendent Samuel Young's report for 1843 asserted that the teacher training departments in the common schools had

practically failed in the accomplishment of the great object for which they were instituted--the special qualification of teachers for the common schools.³⁸

The report pointed out further that little had been accomplished which would not have been accomplished in the ordinary work of the academies, and many which were not sharing in the state bounty were doing as much effective work as those receiving the additional grant. Mr. Young declared that the state assistance was spread over too great an area, with each of sixteen schools receiving three hundred dollars per year. The total, he believed, should be divided among not more than four institutions, which might in time develop into efficient normal schools.³⁹

³⁷New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 12, 1842 (Albany: Thurlow Weed), pp. 16-17.

³⁸New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 14, 1843 (Albany: Carroll & Cook), p. 17.

³⁹Ibid., pp. 17-18.

Superintendent Young further suggested that an appropriation might be made from the literature fund to establish and maintain a normal school in Albany

where it might annually be examined by the representatives of the people, during the sessions of the Legislature.⁴⁰

As an argument for this proposal he pointed to the example of Massachusetts, where four normal schools had been established in the few years following the opening of the first in Lexington in 1839.⁴¹

That educational science is far behind all others, is a fact recognized and conceded by all who are competent to judge. . . . The habits and instincts of wild animals have been carefully investigated, in order that they might be moulded to domestication and trained to utility, but the different propensities of children, according to the old system of training, are not to be studied or regarded. All varieties are to be treated in the same manner, and whipped into uniformity.⁴²

The superintendent's report pointed out that "normal schools" were not an innovation in New York, having been in operation on a limited scale in New York City, and more recently at Kingsboro in Fulton county. He quoted excerpts from the reports of the county deputies, to point further the need for more skillful teaching.⁴³

⁴⁰Ibid., p. 18.

⁴¹Good, op. cit., p. 446.

⁴²Assembly Document No. 14, 1843, pp. 18-19.

⁴³Ibid., p. 19.

The report for that year and the next, of Deputy Superintendent F. B. Sprague of Fulton county, indicated something of the scope and methods of the Kingsboro Normal. The school opened on September 6, 1842, with an enrollment of forty students, which shortly grew to over sixty, including both men and women, some with experience in teaching.⁴⁴ The term of instruction covered eight weeks.⁴⁵ The curriculum included arithmetic, involving fundamentals and problems as well as advanced phases such as ratio, proportion and the "rule of three"; algebra, natural philosophy and geometry; penmanship under "an accomplished writing master"; geography, including

a general exercise of the whole school . . . repeating in concert . . . twice the names of the different States and Kingdoms of the world, with their capitals, the oceans, seas, gulphs /sic/, bays, principal lakes, rivers &c. . . . This exercise is followed by a lecture on the globe.⁴⁶

For some undisclosed reason the sexes were separated for the study of English grammar, which included parsing and syntax, lectures by students on difficult points of grammar, correction of errors, and mistakes in daily conversation. One composition a week was included in the

⁴⁴Ibid., pp. 172-173.

⁴⁵New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 34, 1844 (Albany: Carroll & Cook), p. 293.

⁴⁶Assembly Document No. 14, 1843, p. 173.

curriculum. Daily work was done on orthography and the sounds of letters. Of the work in oral English, as it would be designated today, a rather extended quotation seems desirable:

Great attention is given to elocution and reading. In addition to a daily exercise in concert by the whole school in recitation including the elementary sounds of the English language, difficult specimens in articulations and the best and most difficult pieces in our language; five students declaim every day, so that each young gentleman has an opportunity to declaim several times during the term. The exercises are intended to cultivate and improve the voice, train the organs of speech, improve the articulation, pronunciation and taste of the pupil. The classes are required to define the most important words in their lessons, and much care is taken to have them understand the meaning of what they read. . . .Attention is given to the grammatical and rhetorical pauses, emphasis, quantity and quality of voice and everything necessary to enable the pupil to read with beauty, force and variety.⁴⁷

As to results, the 1844 report of Deputy Superintendent Sprague asserted that at least three-fourths of those who attended the first normal school term taught a better school than they had done previously. He found indications of more life and animation among the teachers, and more interest among the students, in those schools.⁴⁸ A second eight-week term was held in the spring of 1843, and another in the fall of that year. Improvement was sufficiently marked as to indicate the desirability of reducing the term

⁴⁷ Ibid., p. 174.

⁴⁸ Assembly Document No. 34, 1844, pp. 293-294.

for the spring of 1844 to four weeks.⁴⁹

As a result of the suggestion made in the 1843 report, the Board of Regents withheld from the sixteen selected academies the amounts previously granted for support of teachers' classes. Superintendent Young in his report of the following year declared that the sum of four thousand eight hundred dollars thus made available would not be sufficient to establish four normal schools, since only first class teachers should be employed, and salaries for such persons should be at least one thousand five hundred dollars per year.⁵⁰

An increase in teachers' institutes was a direct result of the appointment of county superintendents, the first such organization having been set up in Tompkins county in 1842 by Superintendent Jacob Denman. These voluntary courses of study, lasting two or three weeks, were widely attended. Salem Town, a popular lecturer at the institutes, reported in this same year to Young that three such sessions which he attended as a lecturer had included a total of 266 women and 170 men teachers. According to Town's statement, the institutes' curricula usually included orthography, English grammar, arithmetic, geography "with the use of the globe," analysis of words, reading "by sentences and

⁴⁹Ibid., p. 294.

⁵⁰Ibid., p. 30.

paragraphs in an easy and elegant manner," mensuration, algebra "at an hour not interfering with any of the regular exercises," and music, although the latter was not a regular part of the program.⁵¹

As a result of the reports and experiences with institutes, Young's report recommended that the legislature enact a law appropriating to the uses of teachers' institutes the amount formerly set aside for training departments in academies. While the amount thus provided for an institute in each county would be small, it would aid in providing space, additional lecturers, and a little equipment.⁵²

During the session of 1844 the legislature climaxed these efforts in the direction of teacher training by the passage of an act providing for an appropriation of nine thousand six hundred dollars from the literature fund for the establishment of a normal school in Albany, placing the institution under the joint control of the Board of Regents and the superintendent of common schools by specifying that the funds appropriated were to be expended under their joint supervision. Section two of the act provided an operating budget of ten thousand dollars, also from the literature fund. The joint jurisdiction was provided for specifically in section three:

⁵¹Ibid., pp. 618-619.

⁵²Ibid., p. 31.

The said school shall be under the supervision, management and government of the superintendent of common schools and the regents of the university. The said superintendent and regents shall from time to time, make all needful rules and regulations . . . and . . . provide in all things for the good government and management of the said school. They shall appoint a board . . . of five persons, of whom the said superintendent shall be one, who shall constitute an executive committee for the care, management and government of the said school. . . .⁵³

Thus the legislature showed an early example of the tendency, to be noted more frequently later, to step over the previously hard-and-fast lines of demarcation which had separated the common school system from the higher educational system of the state.

That the normal school was not considered as meeting, at least in early years, the needs of the school system for trained teachers, is shown in the report of the superintendent for 1846, stating that teachers' institutes and "teachers' drills" had been held in nearly thirty counties, attended by over three thousand teachers. The report recommended that since schools must be taught by licensed teachers, the state well might provide for some payment of expenses for the teachers who attended.⁵⁴ There is no indication in the statute books that the legislature then

⁵³New York (State), Session Laws, 1844 (Albany: C. Van Benthuysen), pp. 464-465.

⁵⁴New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 30, 1846 (Albany: Carroll & Cook), pp. 46-47.

accepted the suggestion.

It would seem pertinent to close this discussion of the early efforts for improved teacher training with statistics from the 1848 report of Superintendent Benton.

TABLE II
AVERAGE MONTHLY SALARIES PAID TO TEACHERS FOR
YEARS 1845-1847, EXCLUSIVE OF ROOM AND BOARD*

	1845		1846		1847	
	Winter	Summer	Winter	Summer	Winter	Summer
Males	\$13.37	\$14.25	\$14.16	\$15.77	\$15.10	\$16.80
Females	7.00	6.00	7.37	6.02	7.68	6.31

*New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 5, 1848 (Albany: Chas. Van Benthuysen), p. 19.

While the statistics show some improvement, there is a distressing unwillingness shown to recognize the equivalent value of the services of men and women teachers, and very little tendency to improve the salaries of the latter.

In summarizing the principal factors in the establishment of the common school system, we have thus far observed the growth of the fundamentals of the elementary school, and we have seen that as the system expanded, the need for supervision and for better teaching were recognized as basic to good schools. From the layman's idea of

inspection and licensing as means of providing good teaching, we progressed to the educator's idea of better trained teachers, expressed by such forward-looking individuals as John C. Spencer and John A. Dix in the superintendency, and later, in the local areas, by such men as county deputies Jacob Denman of Tompkins county, father of the teachers' institute, and F. B. Sprague of Fulton county, in whose jurisdiction was established the first county normal school.

In our next chapter we shall complete the survey of the establishment of the common school system by outlining briefly the principal facts in the financing of elementary schools, and the efforts to make them more nearly free to the masses of the people.

CHAPTER V

FINANCIAL SUPPORT AND THE FREE SCHOOL ISSUE

In the two previous chapters we have traced the history of supervision and the training of teachers. In this chapter we shall show how the common schools were financed in their early years, and how the development of the state educational program led to a demand for tax support and free schools.

We have noted in chapter I that in Dutch colonial times schools were free, being supported for the most part by contributions and by assessments levied on the populace. During the English regime schools were largely of the English church charity type, being supported by the English Society for the Propagation of the Gospel in Foreign Parts.

Lack of any information to the contrary leads one to believe that during the early years of statehood New York schools were supported either entirely by local effort or possibly in part by religious organizations. No measure to provide any public support for education appears on the statute books prior to 1789. Then the legislature passed an act requiring the state surveyor-general, in all subsequent surveys of state land, to set aside two lots in each

township for gospel and school purposes.¹ The following year, an act of the legislature placed in the hands of the Board of Regents title to a tract of land lying adjacent to Lake George, Governor's Island in New York harbor, and a grant of one thousand pounds from the treasury, to be used according to the judgment of the regents for the support of literature.²

We have also seen in chapter 2 the passage of the Havens act of 1795, the first definite effort to establish a school system as well as the first specific provision for state assistance to local education, a provision which expired at the end of five years and was not renewed.

Mention has also been made of the establishment of lotteries for the support of literature, provided in an act of 1801. The four lotteries were each intended to raise twenty-five thousand dollars for education, the proceeds to be paid to the Board of Regents after each drawing, half to be devoted to common schools and the other half paid into the literature fund. Thomas S. D. Gelston and Philip Ten Eyck of New York, Smith Thompson of Poughkeepsie, Elisha Jenkins of Hudson, Daniel Hale of Albany, and John Lovett of Lansingburgh were designated as managers and given authority

¹New York (State), Laws of New York, 1777-1801 (re-published by Secretary of State. Albany: Weed, Parsons & Co., 1886), Vol. III, p. 66.

²Ibid., pp. 162-163.

to adopt whatever measures seemed proper for the selling of tickets and the drawing of prizes. They were required to give bond, and to deposit in banks all receipts in excess of five thousand dollars.³

In 1805 a special message of Governor Morgan Lewis called attention to the need of a system of education, and pointed out that funds were probably lacking from ordinary revenues. The only apparent source of income for the purpose was the one million, five hundred thousand acres of state land still remaining, which might be estimated at a value of one million dollars, yielding perhaps sixty thousand dollars per year.⁴ He suggested that once the lands were appropriated for support of education, the legislature might outline the procedure and turn the administration over to the Board of Regents, which might be given power to district the state and appoint trustees, as well as allot the funds available for state assistance.⁵

The legislature which heard this suggestion passed two acts for the support of common schools. An act of March 26, 1805, incorporated the Merchants' Bank of New York, and authorized the state treasurer to subscribe for

³Ibid., Vol. V, pp. 299-300.

⁴New York (State), Messages from the Governors, ed. by Charles Z. Lincoln (Albany: J. B. Lyon Co., 1909), Vol. II, p. 556.

⁵Ibid., p. 557.

one thousand shares of the stock, not to be paid for by the state, "which said shares and the dividends to accrue thereon are hereby declared to be a fund for the support of common schools. . . ."⁶

A favorable report from the joint committee appointed to consider the governor's message on education resulted in the passage on April 2, 1805, of a law setting aside a half million acres of unappropriated state lands as a permanent fund for common schools. The act authorized the comptroller to invest the income from the land and the interest on the funds thus obtained until the annual interest from the accumulated amount reached the sum of fifty thousand dollars. Thereafter it was to be distributed by the legislature for the support of schools.⁷

In 1807 the governor suggested, and the legislature enacted, a law authorizing the comptroller to invest the proceeds of the literature lotteries and the bank stock owned by the state. This provision was modified by a law of 1808.⁸

In his annual message of 1810 Governor Daniel D. Tompkins alluded to the needs of education and pointed out

⁶New York (State), Session Laws, 1805 (Albany: Charles & George Webster), p. 65.

⁷Ibid., pp. 126-127.

⁸New York (State), Session Laws, 1807 (Albany: Websters & Skinner), p. 84; New York (State), Session Laws, 1808 (Albany: Websters & Skinner), p. 243.

that the income of the common school fund then amounted to about twenty-six thousand dollars, and the fund was becoming increasingly productive. Said the Governor,

It rests with the legislature to determine whether the resources of this state will justify a further augmentation of that appropriation as well as to adopt . . . a plan for its application and distribution.⁹

A report from the comptroller indicated that receipts for the common school fund amounted to \$151,115.69, of which twenty-nine thousand one hundred dollars had been invested in additional stock of the Merchants' Bank and one hundred fourteen thousand six hundred dollars loaned according to the authorization of the legislature. The remainder was in the treasury.¹⁰

Examination of the condition of the common school fund by a committee of the Assembly revealed that the comptroller had loaned \$114,600, of which only \$7,752 had been repaid. As a result of the report the legislature passed a measure supplementing to some extent the common school fund, and limiting loans by the comptroller to stock in specified banks. If such were not available for investment, first mortgages on real estate could be accepted with a limit of one thousand dollars per person on such loans.

⁹Messages from the Governors, Vol. II, p. 660.

¹⁰New York (State), Senate Journal, 1810 (Albany: Solomon Southwick), p. 115.

The act also provided for collection of overdue loans, past and future, by the attorney-general.¹¹

The report of the Peck committee, appointed by the governor, and referred to in chapter II, included a tabulation on the condition of the common school fund, from which the following is adapted:

Assets¹²

Bonds and mortgages on lands sold by surveyor-general	\$240,370.67
3,000 shares, capital stock of Merchants' Bank	150,000.00
300 shares of capital of Hudson Bank	15,000.00
Mortgages on loans outstanding	101,924.52
Bonds and sureties	3,000.00
Bond of Mechanics' Bank, New York	10,000.00
Arrears of interest due on bonds and mortgages	35,831.13
Balance in state treasury, Dec. 31, 1811	<u>2,338.37</u>
	\$558,464.69

Revenue

Annual interest on bonds and mortgages	\$21,766.95
Dividends on bank stock	14,850.00
Probable collections from persons refusing to do military duty	1,600.00
Proceeds of clerk's office of Supreme Court	<u>7,000.00</u>
	\$45,216.95

The commissioners pointed out that if the interest reached fifty thousand dollars and were divided among the

¹¹Messages from the Governors, Vol. II, pp. 660-661.

¹²Ibid., pp. 722-723.

449 towns in the state, the share of each would be very small. However, the state funds were to be used exclusively to pay wages, and it was definitely not the intention that the state should bear the entire burden. For that reason the proposed act presented by the commissioners would require the district to raise by tax sufficient funds to provide a lot and a building and keep it in repair.¹³

The act of June 19, 1812, establishing the common school system, provided for the distribution of fifty thousand dollars by the superintendent of common schools to the towns on the basis of census figures, and by the towns to the districts according to the number of children aged five to fifteen. The superintendent might not distribute more than fifty thousand dollars per year until the available interest enabled him to distribute sixty thousand dollars. Any surplus of interest over the fifty thousand might be invested by the comptroller. The general management of the school fund including plans for its "better organization," reports of estimates, collection of outstanding amounts, and sale of school lands was entrusted to the superintendent of common schools.¹⁴ Towns were required to raise by tax an amount equal to that provided by the state, and might vote

¹³Ibid., pp. 723-724.

¹⁴New York (State), Session Laws, 1812 (Albany: Websters & Skinner), pp. 258; 263-264.

as much as twice the amount of state aid.¹⁵

About a year later, in April of 1813, the legislature passed an act setting aside as a permanent fund for common schools the net proceeds of lands sold after April 2, 1805, and of the residue of lands up to five hundred thousand acres. The act provided for loan by the comptroller of school funds for not over two years at seven per cent, secured by mortgage. It also extended for two years the time for payment of outstanding loans if the arrears of interest were paid. The comptroller was authorized, however, to demand additional security in such cases.¹⁶

That an obstacle to distribution of funds appears is evident from the language of a law of March 4, 1814, requiring the treasurer on warrant of the comptroller to distribute the funds for common schools in the proportion certified by the superintendent.¹⁷ No information, however, is available as to the situation which provoked the enactment.

The 1814 revision of the basic common school law continued the earlier provisions for state aid, with a few modifications. The law specifically provided that whenever the surplus of interest over the amount last distributed amounted

¹⁵Ibid., pp. 259-260.

¹⁶New York (State), Session Laws, 1813 (Albany: H. C. Southwick & Co.), Vol. I, pp. 532-534.

¹⁷New York (State), Session Laws, 1814 (Albany: Websters & Skinner), p. 29.

to ten thousand dollars, the amount next distributed should be ten thousand dollars more than the previous year. The superintendent was required to apportion the money to the counties according to population, and the boards of supervisors were to distribute the funds to the towns. The act also increased the amount that towns could raise by tax to three times the sum apportioned by the state.¹⁸

By the time a further adjustment became necessary in 1819, the amount of state money available had increased to seventy thousand dollars. A law of that year continued the ten thousand dollar units of increase provided in the earlier laws, and required the county boards of supervisors to raise by tax an amount equal to the state aid. Town meetings were authorized to add the same amount.¹⁹ Trustees were required to make out a rate bill, assessing parents for the balance due over and above state funds and money raised by tax.²⁰

It would be well at this point to call attention to the fact that during these years the Board of Regents had been distributing to academies the proceeds of the literature fund, which had been augmented as noted by the lottery laws. Up to 1818, according to Governor DeWitt Clinton's message of that year, the thirty-eight incorporated academies

¹⁸Ibid., pp. 210-223.

¹⁹New York (State), Session Laws, 1819 (Albany: J. Buel), pp. 188-189.

²⁰Ibid., pp. 201-202.

had received about one hundred thousand dollars from the income of the fund,²¹ and in the following year the regents divided some four thousand dollars among the academies.²² An act of 1819 added to the literature and common school funds equal shares of quit-rents received by the state from lands which had been sold.²³ As a result, the governor was enabled to report in 1822 that the common school fund had grown to \$1,139,130.57 from which an income of over seventy-seven thousand dollars was received; while the literature fund amounted to \$99,535.82, netting the academies over five thousand dollars.²⁴

In the meantime an act of 1819 had revised the form of the school fund, setting aside for common school use loans under acts of 1792 and 1808, Merchants' Bank stock, proceeds of lands in the military tract which were or might be escheated to the state, and fees from the clerks of the supreme court. These loans had been established as a result of the severe economic conditions prevailing after the close of the Revolution, and the shortage of a circulating medium. An issue of two hundred thousand pounds, or about half a million dollars in bills of credit of various denominations,

²¹Messages from the Governors, Vol. II, p. 904.

²²Ibid., p. 967.

²³Session Laws, 1819, p. 298.

²⁴Messages from the Governors, Vol. II, pp. 1099-1100.

was distributed to counties through loan officers according to supposed need. These were to be invested in bonds and mortgages, in order to get the notes in circulation. The expedient, really a loan of the credit of the state, in a form which was legal tender under some circumstances, was so successful that another loan in money was authorized in 1792, and a third in 1808. The amounts added to the common school fund by the act of 1819 included the unpaid balances of the loans, the full amount of the first loan, and \$449,076.00 of the third loan which was still outstanding.²⁵

The act turned into the general fund of the state the rest of the former school fund aside from the items mentioned, and continued the system of adding ten thousand dollars whenever available, to the amount distributed.²⁶ The next year an act of the legislature ordered the distribution of the entire amount of eighty thousand dollars prescribed by the law of 1819, the deficit to be paid out of the state treasury.²⁷

By 1825 the common school fund was yielding ninety-eight thousand dollars,²⁸ and the following year the legislature ordered the distribution of one hundred thousand

²⁵New York (State), "Report of the Superintendent of Public Instruction," Assembly Document No. 95, 1857 (Albany: C. Van Benthuysen), pp. 20-21.

²⁶Session Laws, 1819, pp. 274-275.

²⁷New York (State), Session Laws, 1820 (Albany: J. Buel), p. 28.

²⁸Messages from the Governors, Vol. III, p. 61.

dollars for school purposes²⁹ and provided that any excess of appropriations over income of the common school fund should be made up from the general fund of the treasury.³⁰

No significant change in the financing of the common school system occurred from this point until 1837. Table III shows the increase in the amount available in the fund, the annual income, amounts paid to the support of education, total available to districts from state aid and taxes, and the amount paid by rate bill, the latter item after 1828.³¹

In June, 1836, Congress provided by law for the "deposit" with the states of the treasury surplus.³² The following January in his message to the legislature Governor Marcy took up the matter of the use to which the income should be put, recommending that it be used for support of education, both the common schools and the academies.³³

A year later the legislature provided for the distribution of the income of the federal deposits which amounted to about five million dollars. The sum of one hundred ten thousand dollars was to be apportioned annually

²⁹New York (State), Session Laws, 1826 (Albany: E. Croswell), p. 350.

³⁰Ibid., p. 355.

³¹New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 21, 1851 (Albany: Chas. Van Benthuyssen), p. 38.

³²Charles M. Wiltse, John C. Calhoun, Nullifier (Indianapolis: Bobbs-Merrill Co., Inc., 1949), pp. 262-267.

³³Messages from the Governors, Vol. III, pp. 612-613.



TABLE III

FINANCING COMMON SCHOOLS IN NEW YORK STATE, 1796-1850^a

Year	Capital	Annual Revenue	Annually Pd. from State Treasury	Am't Rec'd by Districts	Am't Pd. on Rate Bill
1796	. . . . .	\$49,250.	. . . . .	. . . . .	. . . . .
1797	. . . . .	50,000.	. . . . .	. . . . .	. . . . .
1800	. . . . .	49,622.	. . . . .	. . . . .	. . . . .
1801	. . . . .	377.	. . . . .	. . . . .	. . . . .
1806	\$57,757.	not stated	No distri-	. . . . .	. . . . .
1807	183,162.	do	bt'n made	. . . . .	. . . . .
1808	307,164.	do	until the	. . . . .	. . . . .
1809	390,637.	24,115.	revenue	. . . . .	. . . . .
1810	428,177.	26,480.	amounted	. . . . .	. . . . .
1811	483,326.	36,427.	to	. . . . .	. . . . .
1812	558,464.	45,216.	\$50,000.	. . . . .	. . . . .
1813	636,758.	47,612.	. . . . .	. . . . .	. . . . .
1814	822,064.	57,248.	\$48,376.	\$55,720.	. . . . .
1815	861,457.	57,539.	46,398.	64,834.	. . . . .
1816	934,015.	64,053.	54,799.	73,235.	. . . . .
1817	982,242.	69,555.	59,933.	93,010.	. . . . .
1818	971,361.	68,770.	59,968.	117,151.	. . . . .
1819	1,103,940.	70,556.	59,930.	146,418.	. . . . .
1820	1,229,076.	78,944.	79,957.	157,195.	. . . . .
1821	1,215,526.	77,144.	80,104.	173,420.	. . . . .
1822	1,152,630.	77,417.	80,000.	182,820.	. . . . .
1823	1,155,827.	72,515.	80,000.	182,741.	. . . . .
1824	1,172,913.	75,315.	80,000.	182,790.	. . . . .
1825	1,288,309.	82,815.	80,000.	185,720.	. . . . .
1826	1,319,886.	86,429.	80,000.	222,995.	. . . . .
1827	1,353,477.	81,381.	100,000.	232,343.	. . . . .
1828	1,611,096.	89,034.	100,000.	214,840.	\$297,048.
1829	1,684,628.	94,626.	100,000.	238,611.	346,807.
1830	1,661,081.	100,678.	100,000.	244,998.	374,001.
1831	1,696,743.	80,013.	100,000.	305,582.	358,320.
1832	1,704,159.	93,755.	100,080.	307,733.	369,696.
1833	1,735,175.	109,117.	100,080.	316,153.	308,137.
1834	1,754,046.	104,390.	100,080.	312,181.	419,878.
1835	1,791,321.	131,006.	100,000.	313,376.	425,560.

TABLE III (Continued)

Year	Capital	Annual Revenue	Annually Pd. from State Treasury	Am't Rec'd by Districts	Am't Pd. on Rate Bill
1836	\$1,875,191.	\$118,486.	\$100,000.	\$335,895.	\$436,316.
1837	1,917,491.	94,349.	110,000.	335,882.	477,848.
1838	1,919,647.	102,994.	113,793.	374,411.	521,477.
1839	1,932,421.	117,472.	275,000.*	633,685.	476,443.
1840	2,033,807.	103,400.	275,000.*	658,951.	483,749.
1841	2,036,625.	96,073.	285,000.*	676,086.	468,688.
1842	1,968,290.	90,092.	275,080.*	660,727.	509,376.
1843	1,975,093.	107,370.	265,080.*	639,606.	447,565.
1844	1,992,916.	133,826.	275,080.*	725,066.	458,127.
1845	2,090,632.	113,458.	275,080.*	772,578.	460,764.
1846	2,133,943.	123,158.	271,073.*	829,802.	462,840.
1847	2,170,514.	131,551.	275,820.*	858,594.	466,674.
1848	2,211,475.	117,220.	284,902.*	• • • • •	• • • • •
1849	2,243,563.	122,140.	285,028.	846,710.	489,696.
1850	2,290,673.	137,524.	285,000.	• • • • •	• • • • •

^aAssembly Document No. 21, 1851, p. 38, adapted.

*Including \$165,009 from the revenue of the United States Deposit Fund.

to the common schools in the manner prescribed by law. The districts were required to maintain a school taught by a qualified teacher for at least four months instead of the three months' minimum then required. An additional amount of fifty-five thousand dollars was to be distributed to the districts for the purchase of school library books, with the proviso that after three years the amount might be used either for books or teachers' wages as the district meeting might determine. The literature fund received twenty-eight thousand dollars to be added to the twelve thousand dollars then available for distribution by the Board of Regents to academies with proper buildings, libraries, and apparatus, and with a preceptor as a member of the faculty. The law then specified that the remainder of the income, after certain grants to colleges, should be added to the common school fund, and the method of investment was outlined in some detail.³⁴

From this statement of the means of support provided for public education in New York up to the middle of the century, we may turn to the development of the movement which led first to acceptance, and then to partial rejection, of the ideal of free tax-supported education in the common schools. In the early years of the nineteenth century, when the Lancasterian system was in vogue, a small

³⁴New York (State), Session Laws, 1838 (Albany: E. Croswell), pp. 220-223.

group of Friends in New York City, with a little assistance outside of their number, formed a Free School Society, subsequently renamed the Public School Society. The state granted a charter to the group for the education of children not provided for by sectarian schools. An early attempt to collect a fee from those able to pay resulted in a decline in enrollment, the poor refusing to exhibit their inability to pay.³⁵

It was the schools which resulted from the efforts of this organization to which Governor DeWitt Clinton alluded in his message of 1825. He pointed out that there was no known instance of crime having been committed by any one of the thousands who had been educated in the free schools of New York City.³⁶ The following year the Governor returned to the subject, praising the arrangement made between the Free School Society and the city of New York for converting the free schools into public schools. He suggested that the state provide for "gratuitous education in our superior seminaries of indigent, talented and meritorious youth."³⁷ The suggestion was renewed in the message of 1828.³⁸

Governor Marcy adopted a similar point of view in

³⁵H. G. Good, History of Western Education (New York: MacMillan, 1948), pp. 404-405.

³⁶Messages from the Governors, Vol. II, p. 61.

³⁷Ibid., Vol. III, pp. 115-116.

³⁸Ibid., p. 213.

1834:

Republics should be ever mindful of this important truth, that to be free, man must be educated. Without a knowledge of his rights, he will never properly estimate nor long maintain them. Our enjoyment as individuals--our usefulness as members of society--our privileges as citizens of a free government, are all founded on education.³⁹

The annual report of the superintendent of common schools for 1836 indicated a trend toward increased tax support, and, therefore, a corresponding diminution in the collection of rate bills. According to the report, 269 towns in the state, of a total of 789 towns outside of New York City, had taxed themselves for more than the minimum required by law, and in most cases up to the maximum of twice the minimum amount required by law.⁴⁰

During the mid-forties the subject of "free" or tax-supported schools appears more and more frequently in the reports of supervisory officers and in such publications as the District School Journal.

At the state convention of county superintendents, held in Syracuse, in April, 1845, a standing committee reported to the convention a resolution favoring the establishment

³⁹ Ibid., p. 454.

⁴⁰ New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 6, 1836 (Albany: E. Groswell), pp. 17-18.

of free schools.⁴¹ The following year, as the state convention for the revision of the constitution approached, the nominating convention for delegates in Allegheny county adopted the following resolution:

Resolved, that as all our institutions are to be sustained and perpetuated by the intelligence of the masses . . . we recommend to the favorable notice of the delegates to the state convention the necessity of making ample provision for the maintenance and encouragement of a liberal system of common school education, securing to one and all the rudiments of an education entirely free from direct cost or charges, and that the present common school fund be increased for that purpose.⁴²

That this procedure was not unusual was indicated by an editorial in the District School Journal of June, 1846, declaring that in many counties the delegates had been particularly instructed to advocate the adoption of free schools.⁴³

In August of the same year, an editorial in the District School Journal pointed out the labor and time required to prepare the rate bills, and their inequality as a means of financing schools. In many cases, the editorial asserted, parents had to keep their children out of school because they were unable to pay the assessment and the trustees would not exempt them as provided by law.⁴⁴ As to

⁴¹"Free Schools," District School Journal, VI (August, 1845), 92-93.

⁴²Cited in District School Journal, VII (May, 1846), 39.

⁴³"The Free School System," District School Journal, VII (June, 1846), 50.

⁴⁴"The Free School System," District School Journal, VII (August, 1846), 93.

the cumbersome features of the system, the following excerpts from Superintendent Morgan's annual report of 1849 are indicative:

The trustees employ a qualified teacher, for stipulated wages. At the close of his term they give him an order upon the town superintendent, for such portion of the public money as may have been voted by the district. . . . If the public money is not sufficient to pay the teacher's wages, the trustees proceed to make out a rate bill for the residue, charging each parent, or guardian, according to the number of days' attendance of his children. Under the present law, the trustees have power to exempt indigent persons, and the amount exempted is a charge upon the district, and may be immediately collected by tax, or added to any tax thereafter levied. After the rate bill is completed, thirty days' notice of its completion is given by the trustees, one of whom must be in attendance on a day and place appointed in said notice, once a week for two successive weeks, to receive payment; and during the whole of the said thirty days, any person may pay to either of the trustees, or to the teacher, the sum charged to him. . . . At the expiration of the thirty days, if all the persons named in the rate bill have not voluntarily paid, the trustees put it with their warrant, in the hands of the district collector, who has the same authority to collect it, by levy and sale of goods, as a town collector. The collector . . . is allowed thirty days to make his return to the trustees.⁴⁵

Superintendent Morgan pointed out further that the system therefore often entailed a thirty or sixty day waiting period before the teacher could collect the balance of the wages due him. A slight error might subject the trustees to a suit by persons who had overpaid a few cents.

⁴⁵New York (State), "Report of the Superintendent of Common Schools," Assembly Document No. 20, 1849 (Albany: Weed, Parsons & Co.), pp. 41-42.

The exemptions often amounted to only five or ten dollars, but since they constituted an additional tax levied on the district, they required the time of a collector. While the law authorized the courts to deny costs to plaintiffs in suits for overpayment, and permitted boards of supervisors to levy court costs against a district as a tax, the time and trouble to the trustees was not inconsiderable. The rate bill system constituted a burden upon those who objected to being certified as indigent, and often induced parents to condone absence and truancy, since fewer days' attendance meant a smaller charge.⁴⁶

In the meantime, during this discussion, the constitutional revision convention met in Albany on June 1, 1846. In the course of its deliberations, on June 5, the education committee, headed by Henry Nicoll, offered a draft of Article IX, summarized as follows: (1) All proceeds of state lands were reserved for the common school fund; (2) the legislature was required to take steps to provide for the secure investment of the income from lands; (3) revenues from the United States deposit fund were reserved solely for the common school fund; (4) all existing appropriations from the deposit fund income were continued for the period specified in the acts; (5) the literature fund was continued

⁴⁶ Ibid., pp. 42-43.

in force for one year, and thereafter all appropriations were to be paid from the common school fund; (6) a provision was to be submitted to the people separately: directing and authorizing the legislature to provide by law for free education for all persons between the ages of four and sixteen, the expense to be met by taxation.⁴⁷

After considerable parliamentary maneuvering the education committee's article was reduced to the single paragraph which appeared in the final draft of the constitution:

The capital of the Common School Fund, the capital of the Literature Fund, and the capital of the United States Deposit Fund, shall be respectively preserved inviolate. The revenue of the said Common School Fund shall be applied to the support of common schools; the revenues of the said Literature Fund shall be applied to the support of Academies; and the sum of twenty-five thousand dollars of the revenues of the United States Deposit Fund shall each year be appropriated to and made a part of the capital of the said Common School Fund.⁴⁸

By the time Superintendent Christopher Morgan issued his vigorous defense of free schools in his report of 1849, eleven municipalities in the same state, with one-fifth of the total population, had established free schools by state law, approved by local referendum: New York, Buffalo,

⁴⁷"The Convention--Free Schools," District School Journal, VII (September, 1846), 113.

⁴⁸"The Constitution of the State of New York," District School Journal, VII (January, 1847), 188.

Brooklyn, Syracuse, Rochester, Lansingburgh, Williamsburgh, Poughkeepsie, Flushing, Newton, and Bushwick. Three other cities--Albany, Troy and Utica--had so reduced the incidence of rate bills that they could be considered as practically free-school areas.⁴⁹

The following quotation from Morgan's report indicates the trend of the argument for free schools:

The security of property is one of the paramount objects of government, but how shall that security be attained? By the stern restraints and crushing force of military power? . . . There is a moral and intellectual power in the universal education of the people, which furnishes more abiding security for persons and property than disciplined armies.

Property must be taxed to support a soldiery. Why should it not contribute to a system of protection which may preclude the necessity of armies /sic/. Crime and pauperism are too often the results of ignorance. The detection of the one, and the support of the other, are mainly effected by the imposition of taxes upon property.⁵⁰

On March 26, 1849, the legislature passed an act providing that all common schools in the state should be free to residents of the respective districts between the ages of five and twenty-one years.⁵¹ The act required the boards of supervisors at their annual meeting to levy on and collect from the taxpayers of the counties an amount equal to the

⁴⁹Assembly Document No. 20, 1849, p. 44.

⁵⁰Ibid., pp. 48-49.

⁵¹New York (State), Session Laws, 1849 (Troy: Albert W. Skinner & Albert West), p. 192.

state aid apportioned to the county. This sum was distributed among the towns and cities in the same manner as the state funds. District trustees were to prepare an estimate of the amount needed to operate the school in addition to the funds obtained from the state and the county tax. This additional amount was to be raised by tax in the district. The act carried a repealing clause affecting inconsistent sections of previous laws, and provided for a referendum in November, 1849. If approved, the act was to be in effect on January 1, 1850.⁵² An amending act of April 11, 1849, made the law effective immediately after the referendum, and authorized trustees to call special meetings following the approval of the act.⁵³ At the fall election, the act was accepted by a majority of 157,921--only four counties returning majorities against it.⁵⁴

Confusion several times compounded resulted from the passage of the act. In more than half the counties the boards of supervisors had adjourned their annual sessions before the act became effective, and had made no provision for the county tax. In these counties the districts were left to bear the additional tax burden. As a result of

⁵²Ibid., pp. 192-194.

⁵³Ibid., p. 561.

⁵⁴Samuel Sidwell Randall, History of the Common School System of the State of New York, from its origin in 1795 to the present time (New York: Ivison, Blakeman, Taylor & Co., 1871), p. 254.

determined opposition at the district meetings, supplemented by appeals to the selfish interests of large property owners and childless taxpayers, many districts reduced the term of the school year to the four months' minimum permitted by law.⁵⁵

The legislature was showered with petitions urging the repeal or modification of the free school act. The following examples are taken from the Assembly Journal for the 1850 session: on February 21st, five petitions; on the 23rd, thirteen; on the 26th, seven; on the 27th, seven; on the 28th, thirteen; on March 6th, eight; on the 7th, thirty; on the 8th, sixteen; on the 9th, eighteen; on the 11th, fifty-six; on the 13th, ten; on the 14th, twelve.⁵⁶ In the Assembly the majority of these petitions were referred to a select committee which considered them and reported in a rather lengthy document. The committee referred to the common school as

the great nursing places of our heroes and statesmen; the places in which are to be formed our future rulers; where our own wise and learned men are to receive the rudiments of their education, and where the great mass, the laboring and hardy yeomanry of our land, are to receive the whole of theirs.⁵⁷

⁵⁵New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 21, 1851 (Albany: Chas. Van Benthuysen), p. 14.

⁵⁶New York (State), Assembly Journal, 1850 (Albany: Weed, Parsons & Co.), pp. 410, 426, 460, 482, 494, 594, 611, 635, 639, 653, 677, 695.

⁵⁷New York (State), "Report of Select Committee on Petitions for the amendment or repeal of the Free School Law," Assembly Document No. 150, 1850 (Albany: Weed, Parsons & Co.) p. 1.

The committee report outlined the history of common school education and of the development of the common school fund. It termed the income of two hundred and eighty-five thousand dollars from the fund "a magnificent sum for a State to set apart for . . . the education and cultivation of immortal minds."⁵⁸ The report then asserted that the superintendent of common schools had found that some forty-six thousand children were kept from school by the operation of the rate bill system.⁵⁹ Reviewing the passage of the free school act, the committee declared that difficulties should have been expected, but instead the average term of school by hasty action had been reduced from eight months to five or six.⁶⁰

The committee found several principal objections to the law: (1) the unequal rate of taxation necessary to maintain the required term of school; (2) the increase in taxation needed; (3) the power of district meetings to reject estimates and prevent schools from being kept open more than the minimum term.⁶¹ The committee agreed unanimously on the need for relief, and the majority favored amendment rather than repeal of the law. They offered a bill embodying their views: (1) elimination of the district tax in favor of a double tax on the county with a town levy equal to state aid;

⁵⁸Ibid., p. 8.

⁵⁹Ibid., p. 12.

⁶⁰Ibid., p. 13.

⁶¹Ibid., pp. 14-15.

(2) power for districts by vote to use library money for payment of wages; (3) apportionment of two-fifths of public money to districts equally, and the rest according to the number of children attending four months or more; (4) eliminate the power of district meeting to overrule the trustees; (5) use the rate bill to cover cost of operating more than eight months; (6) authorize the district to determine the method of providing fuel and board for the teachers.⁶²

The minority report objected to most features of the proposal. The members criticized the diversion of library funds and the use of the rate bill, as well as the compulsory features of the law. They objected that the method of taxation would be inequitable, and would result in a general tax amounting to eight hundred eighty-five thousand dollars instead of three hundred twenty-five thousand dollars under the old law. They believed in free schools, supported by the state.⁶³

As a result of the opposition to the free school bill the proposal to amend the act was lost in the Senate, which sent to the Assembly instead a bill to re-submit the free school question to the voters at the fall election of 1850. When it became apparent that the obnoxious bill could not be amended, the Assembly agreed to the Senate proposal,

⁶²Ibid., pp. 18-20.

⁶³Ibid., pp. 22-29.

April 10, 1850. The bill provided that if the voters approved repeal it should be effective ten days after the canvass of the votes was completed.⁶⁴

Immediately following the passage of the re-submission act an intensive campaign was launched by the friends of free schools. In his history of free schools Thomas E. Finegan devotes over one hundred pages to documentary materials related to the campaign.⁶⁵ Typical among the items in the campaign were addresses before teachers' institutes and professional groups, editorials in newspapers, and letters to the press from proponents of the law.⁶⁶ An address of W. L. Crandall before the Onondaga county teachers' institute at Syracuse, April 20, 1850, occupied more than eighteen closely printed pages, and closed with this peroration:

To all we say, let not the plaintive wail go up to heaven from thousands upon thousands of children in this state, in November next, that the great State of New York shuts the doors of her schoolhouses in the faces of the poor, and the light of knowledge from their souls. Let not the trying alternative be placed before the poor, intelligent, refined and high-souled mothers of this State, to be certified as paupers, or have their children deprived of the inestimable blessing of a school education. Let this cup of bitter agony pass from them. How will they breathe 'freer and deeper', when, at the close of that election, the shout goes up from the glad

⁶⁴New York (State), Session Laws, 1850 (Albany: Weed, Parsons & Co.), pp. 804-805.

⁶⁵Thomas E. Finegan, Free Schools (Fifteenth Annual Report of the Education Department, Vol. I) (Albany: University of the State of New York, 1919), pp. 314-419.

⁶⁶Ibid., passim.

voices of their children, 'Our school is free!'⁶⁷

Whereupon the institute adopted resolutions approving the call for a state convention of friends of free schools, to be held in Syracuse in June.⁶⁸ The call for the meeting originated the previous day in the convention of town superintendents of Onondaga county.⁶⁹

There shortly appeared in the columns of the Syracuse Daily Star a series of "Free School Pepper-Corns," signed by Peter Ploughshare, and probably, says Finegan, written by Crandall.⁷⁰ At the suggestion of Horace Greeley and others that not enough time would be allowed for the assembling of a suitable convention in June, the date was advanced to July 12.⁷¹ A circular dated May 18 and signed by the Syracuse Free School Committee, with Crandall as secretary, was sent out in large humbers.⁷² Arrangements were made with various railways for convention rates, and a meeting of ladies was arranged to coincide with the convention.⁷³

Ten days before the convention was scheduled to meet

⁶⁷Ibid., pp. 332-333.

⁶⁸Ibid., p. 333.

⁶⁹Ibid., p. 334.

⁷⁰Ibid., pp. 335-339.

⁷¹Ibid., p. 348.

⁷²Ibid., p. 342.

⁷³Ibid., p. 356.

Crandall issued a prospectus of a proposed publication to be called the Free School Clarion, or which he was to be the editor, and which was to be issued weekly until one week after the election.⁷⁴

The free school convention gathered enthusiastically and amid a good deal of oratory, adopted in the course of two days a series of resolutions in behalf of free schools, and established a statewide organization to carry on the fight for the law.⁷⁵

On the other side of the fence the opponents of the law were not idle. A mass meeting of the opposition was held at Hampton, Oneida county, on August 22, and adopted a series of resolutions condemning the principle and the method of taxation for free schools.⁷⁶ An opposition sheet entitled the Independent Freeman appeared, published at Jefferson, Chemung county.⁷⁷

When the smoke of battle had cleared away, the total vote showed 71,912 against repeal, 46,874 for repeal, or a statewide majority of 25,038 against repeal. However, as shown in Table IV, the majority for the law was principally rolled up in the urban areas, many of which already had free

⁷⁴Ibid., p. 358.

⁷⁵Ibid., pp. 361-364.

⁷⁶Ibid., pp. 382-386.

⁷⁷Ibid., p. 386.

TABLE IV

VOTE BY COUNTIES ON RE-SUBMISSION OF FREE SCHOOL LAW**

County	Against Repeal	For Repeal
*Albany	5,272	
Allegany		1,626
Broome		175
Cattaraugus		979
Cayuga		230
Chautauqua		1,630
Chemung		180
Chenango		2,470
Clinton		70
Columbia	1,828	
Cortland		1,997
Delaware		2,028
*Dutchess	2,923	
*Erie	1,743	
Essex		579
Franklin		443
Fulton and Hamilton		973
Genesee		1,132
Greene		1,379
Herkimer		50
Jefferson		2,106
*Kings	10,076	
Lewis		964
Livingston		1,051
Madison		642
*Monroe		68
Montgomery	1,042	
*New York	37,827	
Niagara		1,292
*Oneida		897
*Onondaga	1,926	
Ontario		742
Orange		909

TABLE IV (Continued)

County	Against Repeal	For Repeal
Orleans		1,312
Oswego		471
Otsego		1,720
Putnam		114
*Queens	508	
*Rensselaer	3,806	
Richmond	861	
Rockland	112	
St. Lawrence		1,069
Saratoga		1,134
Schenectady	52	
Schoharie		2,548
Seneca	303	
Steuben		1,361
Suffolk		368
Sullivan		273
Tioga		1,654
Tompkins		2,517
Ulster	237	
Warren		704
Washington		1,008
Wayne		2,137
Westchester	2,272	
Wyoming		1,545
Yates		661
Total	71,912	46,874

* Counties in which a free school municipality was located

**New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 21, 1851 (Albany: Chas. Van Benthuyssen), p. 38.

schools, The rural counties for the most part stood solidly for repeal, and in some counties the majority for the law was slim, as it was, indeed, in three of the opposition counties.

In the succeeding session of the legislature, a revised law was passed, under pressure of the large opposition rolled up in the rural counties. The new law reiterated the principle that the schools were free to all between the ages of five and twenty-one. It required the state to raise by taxation on real and personal property the sum of eight hundred thousand dollars to be allocated to the county treasurers subject to the order of the superintendent of common schools. The apportionment to the counties by the superintendent was to be according to assessed valuation of property. One-third of the money from the general tax, and one-third of that from other sources, was to be apportioned before January 1 of each year to the districts from which reports had been received.⁷⁸

In his report for 1851 Superintendent Morgan pointed out the inequalities in the proposed tax, which are exhibited in Table V, adapted from statistics provided by the superintendent's report. Morgan urged a more equitable and fair distribution for the benefit of the poorer districts. This

⁷⁸New York (State), Session Laws, 1851 (Albany: Chas. Van Benthuyssen), pp. 292-296.

TABLE V
ESTIMATED PAYMENTS AND RECEIPTS BY COUNTIES UNDER
\$800,000 STATE TAX*

County	County Pays	County Receives
Albany	\$20,224.99	\$23,733.74
Allegany	4,560.93	12,312.25
Broome	2,554.47	7,927.22
Cattaraugus	4,593.48	9,266.75
Cayuga	12,954.57	15,254.55
Chautauque /sic/	6,223.55	14,297.74
Chemung	3,672.66	7,276.34
Chenango	5,159.22	12,255.73
Clinton	2,137.33	9,607.39
Columbia	12,696.76	12,893.40
Cortland	2,716.99	7,703.91
Delaware	4,489.26	11,361.89
Dutchess	23,288.92	16,931.96
Erie	18,877.10	24,153.63
Essex	1,034.48	7,710.36
Franklin	2,130.63	5,741.46
Fulton	1,496.50	5,706.75
Genesee	7,709.76	8,860.07
Greene	3,299.18	9,815.95
Hamilton	399.03	578.08
Herkimer	7,802.23	11,495.21
Jefferson	8,648.54	19,865.17
Kings	47,940.21	24,170.83
Lewis	1,947.81	6,210.19
Livingston	12,879.34	10,195.61
Madison	8,035.27	12,589.62
Monroe	18,240.42	21,777.43
Montgomery	3,535.42	9,105.18
New-York /sic/	305,295.33	114,025.33
Niagara	6,340.28	10,612.42
Oneida	15,447.37	26,039.90
Onondaga	20,114.18	21,555.04
Ontario	16,618.15	13,082.61
Orange	14,604.63	16,042.11

TABLE V (Continued)

County	County Pays	County Receives
Orleans	\$6,056.98	\$7,938.58
Oswego	8,550.03	14,879.20
Otsego	6,671.96	15,514.41
Putnam	3,956.02	4,072.34
Queens	13,932.46	9,782.78
Rensselaer	16,942.41	19,147.82
Richmond	2,286.41	4,199.82
Rockland	3,007.28	4,220.70
St. Lawrence	4,308.88	19,152.73
Saratoga	8,889.60	12,740.13
Schenectady	3,738.14	5,108.09
Schoharie	2,183.25	9,979.06
Seneca	7,443.95	7,670.43
Suffolk	7,321.30	10,621.33
Steuben	8,181.02	15,873.79
Sullivan	1,870.57	5,752.22
Tioga	2,327.79	6,897.61
Tompkins	4,889.20	11,723.73
Ulster	6,529.71	15,022.34
Warren	1,224.00	4,579.16
Washington	7,878.63	12,456.62
Wayne	8,672.39	13,058.96
Westchester	24,043.57	14,614.12
Wyoming	5,330.71	8,356.32
Yates	5,194.75	6,381.89
Total	\$800,000.00	\$800,000.00

*New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 21, 1851 (Albany: Chas. Van Benthuyssen), pp. 36-37.

was partially accomplished by the provision requiring distribution of part of the money raised, to districts which had made their reports.

Reference has previously been made (chapter III) to Samuel S. Randall's suggestion in his proposed code of school laws that a permanent mill tax be substituted for the \$800,000 state tax.⁷⁹ Randall's argument for this change may be summarized thus: (1) An individual would pay a fixed amount based on assessed valuation of his property as determined by town assessors; (2) the trivial sum of one dollar per thousand would allow all schools to be kept open for the entire year without further charge to parents; (3) the mill tax would be permanent and self-adjusting to the needs of the schools; (4) by the elimination of rate bills the odium of exemptions would be removed; (5) wherever adopted, public support of education had had desirable social results.⁸⁰

Randall's report pointed out further that the schools were free only to the extent that they could be supported from the proceeds of the \$800,000 tax, after which the cost was assessed to the parents by rate bill. The reports of the superintendent showed that over one

⁷⁹New York (State), "Report of Commissioner for codifying the . . . laws relating to common schools," Assembly Document No. 21, 1852 (Albany: Chas. Van Benthuyssen), p. 11.

⁸⁰Ibid., pp. 11-14.

million four hundred thousand dollars had been spent for wages and apparatus for an average eight months' term, and it might be assumed that one million five hundred thousand dollars would be needed to support the schools completely. A mill tax on the current valuation plus the income from the state funds would provide one million four hundred thousand dollars, which Randall declared would support the schools for ten months.⁸¹ It is to be noted that he had previously stated that one million five hundred thousand dollars would be needed for eight months.

In his report of 1852 Superintendent Henry Randall characterized Randall's proposed one mill tax as "a measure fraught with incalculable blessings to the cause of universal education," and declared that

It is utterly incompatible with all sound principles of legislation to declare in one breath that 'common schools throughout the State shall be free to every child between the ages of five and twenty-one years' and in another to provide for the compulsory imposition of a rate bill. . . .⁸²

A further step toward free education resulted from the passage of the union free school act of 1853, which among its other provisions authorized the boards of such

⁸¹Ibid., p. 16.

⁸²New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 25, 1852 (Albany: C. Van Benthuysen), pp. 13, 16.

districts to raise money by tax for support of the school and the payment of teachers' wages.⁸³

The report of Superintendent E. W. Leavenworth for 1853, submitted by Henry S. Randall early in the following year, urged the enactment of the mill tax as a substitute for the fixed amount, and asserted that the mill tax idea seemed acceptable to all parties. In his argument Leavenworth pointed out that the only basis on which a state tax for education could be supported was that education was a common concern as much as the support of government.⁸⁴ He recommended that the method of allocating state aid should be revised, distributing one-third equally to all districts, the remainder to be divided among districts having a given number of pupils.⁸⁵

A new basis of apportionment of state aid appeared in the first annual report of Victor M. Rice, the superintendent of public instruction under the law of 1854. He recommended the apportionment of part of the state money on the basis of attendance, with the purpose of improving attendance.⁸⁶ Still another proposal with a familiar ring

⁸³New York (State), Session Laws, 1853 (Albany: Weed, Parsons & Co.), p. 831.

⁸⁴New York (State), "Report of Superintendent of Common Schools," Assembly Document No. 7, 1854 (Albany: C. Van Benthuyssen), pp. 12-13.

⁸⁵Ibid., pp. 20-21.

⁸⁶New York (State), "Report of Superintendent of Public Instruction," Assembly Document No. 7, 1855 (Albany: C. Van Benthuyssen), p. 9.

is found in the second report of 1855, suggesting a district quota for each teacher in a district employing more than one teacher.⁸⁷ Rice also proposed a tax for school purposes, based upon wealth. He defended the policy established by the act of 1851, of taxing some areas in excess of the amount returned by the state in state aid, declaring that "the tax, being founded upon a recognized necessity, should vary with the needs it is intended to supply."⁸⁸ He further recommended (1) re-interpretation of the union free district law to insure that districts could raise all funds by law instead of having to resort to rate bills; (2) specific permission to any district to vote enough taxes to pay wages.

During the following seven or eight years relatively little progress is apparent in the free school movement. In his report of 1861 Superintendent H. H. Van Dyck recommended revision of certain "ambiguous and contradictory" provisions in the union free school law, which required a two-thirds vote to create such a district and the same percentage to vote funds at an annual meeting. In cities or incorporated villages taxes could be levied without any vote.⁸⁹ Later in

⁸⁷New York (State), "Report of the Superintendent of Public Instruction," Assembly Document No. 65, 1856 (Albany: C. Van Benthuysen), pp. 14-15.

⁸⁸Ibid., pp. 15-19.

⁸⁹New York (State), "Report of Superintendent of Public Instruction," Assembly Document No. 45, 1861 (Albany: C. Van Benthuysen), p. 9.

the message Van Dyck asserted that

a free school supported by rate bills is such an anomaly as could be found sanctioned nowhere else save in the 'Code of Public Instruction' in the State of New York.⁹⁰

Difficulties in assessing the rate bills appear as the cause of an interesting revelation in the annual report of Superintendent Emerson W. Keyes in 1862. Keyes, referring to the lack of exact attendance records to enable trustees to assess rate bills accurately, quoted the report of a county school commissioner:

In more than half the districts they have no regular book for keeping the daily and weekly roll, and I very frequently find the teacher's roll on scraps of paper thrown amongst other loose papers in the desk or drawer, to which all the scholars have free access; or carried in the teacher's pocket; and in two or three instances I have been fortunate enough to find it in the teacher's hat.⁹¹

As a result of this and similar instances of record-keeping Superintendent Victor M. Rice in 1864 prepared a register of attendance on his own responsibility after the legislature had disregarded his pleas for authority to do so.⁹²

⁹⁰Ibid., pp. 15-16.

⁹¹New York (State), "Report of Superintendent of Public Instruction," Assembly Document No. 5, 1862 (Albany: C. Van Benthuysen), pp. 10-11.

⁹²New York (State), "Report of Superintendent of Public Instruction," Assembly Document No. 75, 1865 (Albany: C. Wendell), pp. 45-46.

A further extension of the use of attendance of pupils as a basis for apportionment of state funds appeared in the law books of 1864, when the legislature set aside part of the state aid funds to be distributed on the basis of average daily attendance.⁹³

A reading of the reports of this period gives rise to the definite impression that Superintendent Rice was a vigorous individual. In the report of 1864 he returned to the periodic attack on the rate bill with the statement that it impossible to read the reports from the common school commissioners without the conviction that the rate bill was a serious impediment to school attendance, and that the free school was essential to secure education for all youth.⁹⁴ The following year he analyzed the statistics resulting from his record-keeping system and came to the conclusions that over fifty-eight per cent of all children were out of school at some time, and that the failure to attend resulted in a loss to the state of \$2,320,588.08 in "benefit of education."⁹⁵

In Rice's mind, the remedies for the situation were twofold: improve the quality of teaching, and make the

⁹³Ibid., p. 45.

⁹⁴Ibid., p. 46.

⁹⁵New York (State), "Report of Superintendent of Public Instruction," Assembly Document No. 90, 1866 (Albany: C. Wendell), p. 21.

schools free. The first he would accomplish by providing more normal and training schools; encouraging the establishment of teachers' institutes, with skilled instructors provided by the state; and increasing the salaries of the school commissioners so that they might spend their entire time at the business of supervision.⁹⁶

Establishment of free schools, in Rice's opinion, was justified on the basis of the principle that "the property of the State should educate the children of the State," and he quoted the precedents of previous laws providing for taxation for school purposes.

If the hundreds of thousands intellectually starved by the operation of the odious rate bill could rise up in contrast with those generously nourished by the free system, the revolution in favor of the latter would become an "irrepressible conflict" which would result in the total overthrow of that slavish love of gain, which denies the common brotherhood of man, and ignores the divine command, "Love thy neighbor as thyself."⁹⁷

Chief among the several recommendations which Rice made in closing his report were (1) increase of the state mill tax to one full mill to diminish local taxation for schools; and (2) elimination of rate bills, making the schools "free . . . as the air and the sunlight;" and establishment of additional normal schools "in such eligible

⁹⁶Ibid., p. 23.

⁹⁷Ibid., p. 25.

places as shall offer the greatest inducements by way of building, school apparatus, etc."⁹⁸

In his annual report of 1867 Rice proposed a half-mill increase in the state tax, to pay the entire cost of education for a required term of twenty-eight weeks, the districts to be authorized to raise more by district taxation to provide better services or a longer term, thus abolishing the rate bill and making all schools free.⁹⁹

Before proceeding to the passage of the free school law of 1867, attention should be called to the status of the rate bill and to other opinions regarding it. Table VI shows the growth of the amounts collected by rate bills over a ten-year period in comparison with the total expenditures of schools in rural areas. In Appendix I have been collected a number of statements from the 1866 report of the superintendent, indicating definitely that rural opinion as reflected by the school commissioners, at least, was not whole-heartedly in accord with the official opinion at Albany.

Before the legislature of 1867 had been very long in session, friends of the free school movement set their program in motion. On January 30 Smith Weed of Plattsburg, a

⁹⁸Ibid., pp. 56-57.

⁹⁹New York (State), "Report of Superintendent of Public Instruction," Assembly Document No. 79, 1867 (Albany: Chas. Van Benthuysen), p. 30.

TABLE VI
 AMOUNTS COLLECTED BY RATE BILLS COMPARED
 WITH TOTAL EXPENDITURES FOR RURAL SCHOOLS*

Year	Total Rural Expenditures	Rate Bills	
		Amount Raised	Pct. of Rural Expenditure
1857	\$1,824,934.87	\$427,956.07	23.45%
1858	1,988,664.20	390,515.50	19.63
1859	2,033,933.51	414,062.72	20.35
1860	2,032,118.69	420,257.98	20.68
1861	1,993,197.56	397,215.87	19.93
1862	2,075,129.51	407,009.57	19.27
1863	1,915,685.62	363,741.05	18.98
1864	2,167,868.61	429,892.52	19.83
1865	2,763,563.40	655,158.78	23.71
1866	3,450,125.84	709,025.36	20.55

*Information from Annual Reports of Superintendent of Public Instruction, 1858-1867 inclusive.

member of the board of education in that community for over half a century,¹⁰⁰ gave notice that he would shortly ask leave to introduce a bill to "make the common schools of the State of New York free to all and to provide for the government and maintenance of said schools."¹⁰¹ This bill, introduced on February 2 came before the Assembly on special order on March 18, and was recommended for passage with an amendment to the title specifically stating that one purpose of the bill was to abolish rate bills.¹⁰² Four days later the bill was passed by the Assembly by a unanimous vote, 82 to 0.¹⁰³

On the Senate floor the bill met with little delay, being favorably reported on by the literature committee on March 28, five days after being received from the Assembly.¹⁰⁴ It was passed by the Senate on April 11 by a vote of 24 to 3.¹⁰⁵

While the free school bill was still before the legislature, Superintendent Rice in a special report of

¹⁰⁰Finegan, op. cit., p. 546.

¹⁰¹New York (State), Assembly Journal, 1867, (Albany: C. Van Benthuysen), Vol. I, p. 223.

¹⁰²Ibid., pp. 268, 755.

¹⁰³Ibid., p. 873.

¹⁰⁴New York (State), Senate Journal, 1867 (Albany: C. Van Benthuysen), p. 484.

¹⁰⁵Ibid., p. 777.

February 15, 1867, asserted that schools should be made free for the benefit of indigent parents, who

having too much pride to ask to be exempted from paying their rates, keep their children away rather than be put down upon the list of indigents. . . . The parsimonious keep their children at home rather than pay the amount required to defray teachers' wages after the public money has been applied.¹⁰⁶

Rice pointed out that the whole school attendance of 592,511 was only seventy per cent of the entire number of children between five and twenty-one years, and the actual attendance, amounting to 263,401, was only thirty-one per cent of the total number of children.¹⁰⁷

If we make allowance for sickness, for distance from the schoolhouse, for impassable roads and bad weather, for employment in various kinds of labor, on the farm, in the shop or manufactory, or in household duties, for vagrancy and truancy, the number of absentees will still be a formidable sum /sic/, to be accounted for by some reason operating generally and powerfully.¹⁰⁸

Rice declared further that the schools could be made entirely free in the rural districts by a state tax increased to one and one-fourth mills on the dollar, a mode of raising money fully in accord with the established policy of the

¹⁰⁶New York (State), "Special Report of Superintendent of Public Instruction in relation to education in this country and Europe," Assembly Document No. 237, 1867 (Albany: C. Van Benthuyssen), p. 57.

¹⁰⁷Ibid., p. 57.

¹⁰⁸Ibid., p. 58.

state, and of the principle that "the property of the State shall educate the children of the State."¹⁰⁹

The education of the people is a matter of common concern, and a state tax for the support of schools is the most equitable and just, since it distributes the burden of taxation in proportion to the ability of taxpayers. The rate bill is a violation of equity and justice, for it imposes upon the indigent and the poor a tax, under a plausible name, not upon their property, for they have none, but upon their affection and solicitude for their children.¹¹⁰

As passed by the legislature, the law of 1867 was a thorough revision of the previous consolidated school law of 1864. To note only those sections relating to the free school question, Section 3 amended the law to provide for a state tax of one and one-quarter mills for the support of schools.¹¹¹ Section 8 authorized the districts to vote a tax to make up any deficiency in amounts needed to pay teachers' wages after the state aid had been so applied, and specified that if the inhabitants failed to vote the tax as prescribed, the trustees might raise the necessary sum without formal authorization.¹¹² Section 26 of the new law specifically eliminated rate bills by requiring that all money for support of schools, heretofore raised by rate

¹⁰⁹Ibid., p. 58.

¹¹⁰Ibid., p. 59.

¹¹¹New York (State), Session Laws, 1867 (Albany: Weed, Parsons & Co.), Vol. I, p. 966.

¹¹²Ibid., p. 967.

bills, must be provided by tax.¹¹³

In his report for 1868 Superintendent Rice pointed to statistics received from school districts, indicating substantial increases in several aspects of school activity:

In time of maintaining schools per year	9.4 per cent
Number of teachers employed twenty-eight weeks or longer	88 per cent
Amount paid for teachers' wages	141 per cent
Average increase in compensation	28 per cent
Number of children of school age	32 per cent
Average daily attendance	74 per cent
Value of school houses and sites	178 per cent ¹¹⁴

We have reviewed in this chapter the course of financial support for the common schools, noting that in the early post-Revolutionary War period, financial support was scanty and strictly local, and save for a period of five years there was no organized program of state support until the establishment of the common school fund in 1805 and the organization of the common school system in 1812. From these simple beginnings we have traced the common schools through the period of development of state responsibility for an increasing portion of financial support, and have seen the practice of assessing parents for school purposes give way to full tax-support from state and local sources.

¹¹³Ibid., p. 976.

¹¹⁴New York (State), "Report of Superintendent of Public Instruction," Assembly Document No. 80, 1868 (Albany: C. Van Benthuysen & Sons), p. 59.

With this chapter we bring to a close the summary of the historical development of the state system up to the point at which all of the basic features of the educational program have been established. In the following chapters, we shall show the results of the hit-or-miss legal basis for the school system, in the form of points of issue between the supervisory departments.

CHAPTER VI

CONSTITUTIONAL CONVENTION OF 1867-1868

In the remaining chapters of our study it is proposed to review in some detail the points of issue which developed from time to time between the Board of Regents, which was charged originally with the control of secondary and higher education, and the department of public instruction, established in 1854, and given the supervision of common and union free schools. There were several reasons for the friction which appeared sporadically between the two controlling bodies. First, the laws which created portions of the school system or amended their functions, assigned overlapping or conflicting duties to the two departments. Second, the incumbents of the superintendency of public instruction were frequently vigorous or contentious individuals who found occasion to criticize the existing arrangements. Third, a growing spirit of opposition to the Board of Regents became evident. This opposition stemmed first from the opinions of those who objected to supporting the regents when the board had apparently failed in the purpose for which it was believed to have been created, that of establishing a state university system. Further opposition appeared later in the half-century (1854-1904) as a result of the

establishment of the system of regents' examinations, which were often criticized by school personnel and others as obstructive to the complete development of secondary education.

This spirit of criticism and the friction between the departments waxed and waned at intervals, reaching a crescendo in the constitutional convention of 1867-1868, in which a member of the Board of Regents itself was its most outspoken critic. It appeared at times in the form of proposals to change the type of control through legislative enactments. Finally it reached a new high point in the declining years of the nineteenth and the first years of the twentieth centuries, and culminated at last in the Unification Act of 1904. This enactment established the state department of education under a commissioner, but left the Board of Regents in undisputed general control of the state's educational system.

Two statutes are responsible for much of the friction which developed between the common and secondary school systems during the period covered by this part of the study. The first was the so-called Union Free School law of 1853, which authorized the establishment of union free school districts by vote of the inhabitants. These districts were given extensive corporate powers to raise money by tax, for ordinary school purposes as well as for capital outlay; to employ teachers; to take and hold real estate; to manage the schools within the district, and to receive non-resident

pupils.¹ One of the provisions which brought about dissension granted to these union free districts the power to establish academic departments which would have all the privileges given to academies by earlier statutes. Another source of dispute was the matter of supervision over these academic departments. The law provided that

Every academical department so to be established. . . shall be under the visitation of the regents of the university, and shall be subject in its course of study and matters pertaining thereto (but not in reference to the buildings or erections in which the same is held, except in cases where the buildings aforesaid are separate from those of the common school department) to all the regulations made in regard to academies by the said regents. In such departments, the qualifications for the entrance of any pupil shall be the same as those established by the said regents for admission into any academy of the state under their supervision.²

Thus arose the peculiar situation whereby districts whose common school grades were subject to the jurisdiction of the superintendent of public instruction, might establish academic departments which were under the supervision of the Board of Regents. Yet the law explicitly stated that in cases where the two departments occupied the same building, the portions of the premises occupied for academic instruction were subject to the authority of the board of education, which was under the superintendent of public instruction.

¹New York (State), Session Laws, 1853 (Albany: Weed, Parsons & Co.), pp. 828-834.

²Ibid., p. 835.

The latter, in turn, had authority over the physical premises of academic departments in such cases but no control over admission requirements or the course of study.

A law of 1854 provided for the election of a superintendent of public instruction every three years by the legislature. To this official the law delegated the powers of control over educational matters which had been exercised by the secretary of state since the abolition of the superintendency in 1821, following the summary removal of Gideon Hawley. The language of the law provided another possible source of trouble:

It shall be the duty of the state superintendent to visit, as often as may be practicable, such of the common schools, academies and other literary institutions of the state as he may deem expedient; to inquire into the course of instruction, management and discipline of such institutions, and to report the results of such visitation and inspection annually to the legislature.³
*[Italics in this passage are mine.]*⁷

The state superintendent was also made an ex officio member of the Board of Regents,⁴ a possible source of embarrassment in some of the controversies that were to result.

The number of union free schools was increasing rapidly during the period under consideration. It was a natural accompaniment to the development of high schools

³New York (State), Session Laws, 1854 (Albany: Weed, Parsons & Co.), p. 231.

⁴Ibid., p. 232.

and the consequent decline of the academy as a force in secondary education. The provisions quoted, therefore, loomed considerably larger, especially in the minds of several incumbents of the superintendency who found the division of authority irksome. We shall see instances in which this point of view crept into their reports, and later in this chapter charges that organized opposition to the Board of Regents stemmed from the superintendent's office.

The first serious attack on the activities and prerogatives of the Board of Regents took place during the sessions of the constitutional revision convention held in Albany, beginning in June of 1867. It is the purpose of this chapter to indicate the principal steps in this challenge to the Board of Regents, and to exhibit some of the arguments used against the board. Spearheading the struggle was George William Curtis of Richmond county, chairman of the convention's education committee, himself a member of the Board of Regents, and later to be chancellor of the body which he had attacked in the convention.

Opponents of the board took early action to place their case before the convention. The nature of the attack is shown in a communication to the convention from S. B. Woolworth, secretary of the regents. According to the regents' statement, a number of petitions were circulated in various parts of the state, accompanied by a circular

letter dated in Albany, August 19, 1867, of which the following is the text:

The accompanying memorial requires no word of explanation from us. It shows, clearly and conclusively, the absurdity and comparative uselessness of the corporation concerning which it treats. Other reasons than those we have given might have been adduced, which, with many persons, would doubtless have been of equal weight. But it was thought better that nothing be said on points which, on account of differing opinions, might furnish grounds for dispute.

The memorial is sent to you in the belief that you fully indorse the free school law of 1867, and desire the complete triumph of the free school system, applied as well to the higher as to the common schools.

But that triumph can never come until our system of education becomes a single system; and to make its coming at all probable within the next twenty years, the action asked for in the memorial, seems to us an imperative necessity.

Please get as many names (of voters) subscribed to the memorial as you can in the time, and send it to some member of the Convention, from your district, before or by the second day of September. If not sent before, send it on that day, whether you have five, or a hundred names. Later than that will be too late to accomplish your purpose. Only a few names, well known in the county, will be of great service here.

Will it be too much to hope, that, although the time is short, and the call unexpected, your response will be cheerful, prompt and effective.⁵

The letter was signed "in behalf of free schools" with the names of Thomas Olcott, James H. Armsby, M. P. Cavert, Alexander S. Johnson, Alden March, and John H. Reynolds.⁶

⁵New York (State), Documents of the Convention of the State of New York, 1867-1868 (Albany: Weed Parsons & Co.), Vol. V, No. 157, pp. 3-4.

⁶Ibid., pp. 3-4. It is to be noted that the name of

The tenor of the petition can be seen from the dignified reply of the special committee of the Board of Regents, consisting of Chancellor John V. L. Pruyn, Alexander S. Johnson, George S. Perkins, Erastus C. Benedict, and Robert G. Rankin.⁷ In its reply the committee declared that the petition and circular indicated lack of clear understanding of the purpose of the legislature in instituting a university; that the regents did not consider it their special duty to defend the legislative enactments of the past eighty years; and that while they disclaimed any intent to influence the action of the convention, they believed it to be the duty of the regents to submit a statement regarding certain matters in the petition.⁸

The first allegation, that the legislature in the act of 1787 abandoned the original idea of erecting Columbia College into a university, the regents declared to be inaccurate, since the intent of the law was rather to establish other colleges of coordinate rank under the supervision of

Alexander S. Johnson appears among the signers of the circular letter quoted above, urging unification, and the same name is given in the next paragraph as one of the regents' committee which replied to the circular. Since there is no identification of either of these individuals, there is no way of knowing whether one person or two are indicated. Since the surname is common, it is reasonable to assume that the similarity is merely coincidental.

⁷Ibid., p. 12.

⁸Ibid., p. 4.

the regents "as a federal head."⁹

The petition alleged further that the legislature by the act of 1787

by a mere figment of the law, instituted within this State an University without location, without buildings, without endowments, without professors and without students.¹⁰

The regents' committee replied that the object of the laws was instead "an impartial, comprehensive and elevated system of supervision and control" over the colleges of the state, and no provision was contemplated for a university in the usual sense.¹¹ The committee further pointed out that the legislative journals over the years had indicated that the legislature had never become convinced of the "absurdity and comparative uselessness" of the University of the State of New York.¹²

The petitioners charged that although eighty years had passed since the founding of the university, the regents had never attempted to establish a university or any such institution, and were "without funds and destitute of all means for accomplishing the purpose for which they were created." The regents' committee did not believe that

⁹Ibid., p. 6.

¹⁰Ibid., p. 6.

¹¹Ibid., p. 6.

¹²Ibid., p. 8.

refutation other than that contained in the previous section was necessary.¹³

The petition went on to declare that the fact that the University of the State of New York existed only in the statute was

a reproach to the State, and a source of shame and mortification to scholars, citizens of the State, who commune with scholars in other lands.¹⁴

The reply of the regents pointed to twenty-seven colleges of law, liberal arts and medicine and two hundred academies under the supervision of the Board of Regents. These institutions had property and endowments worth eight and a half millions of dollars; salaries paid to faculty amounted to three-fourths of a million annually; and about 40,000 students attended each year. Instead of being a "source of shame" many of the institutions included had attained high reputation.¹⁵

The petition alleged further that the real connection of the regents with liberal education was

of the slightest character, consisting mainly in receiving and digesting for the legislature, the reports of such academies and colleges as voluntarily may report to them, and in distributing to such schools the moneys

¹³Ibid., p. 8.

¹⁴Ibid., p. 9.

¹⁵Ibid., p. 9.

from time to time appropriated by the State.¹⁶

The regents pointed out the extent of the information contained in their annual reports, and quoted the revised statutes as requiring the colleges and academies to "make such returns and reports to the Regents . . . as the Regents shall from time to time require."¹⁷

The petition asserted that the Board of Regents was charged with no duty which may not be performed as well, or better, by some other agency; and has, in no proper sense, the care and control of any educational interest that would suffer should it be no longer continued.¹⁸

The regents' reply declared with dignity that

They owe it, however, to those who have preceded them, as well as to themselves, to say that the duties of the board have been discharged with fidelity, and with an earnest purpose to promote the interests entrusted to its care.¹⁹

As to the assertion in the circular that the action urged was imperative to assure the complete triumph of free schools, the committee was at a loss to know what was meant, for the regents had never been hostile to free schools. The regents further could not see that they stood in any way as

¹⁶Ibid., p. 9.

¹⁷Ibid., p. 10.

¹⁸Ibid., p. 11.

¹⁹Ibid., p. 11.

an obstacle to making all academies free. The state would probably provide means of support from the treasury when ready to do so, and until then, to require the academies to be free by law would destroy all but those of ample endowments.²⁰

The regents pointed, in closing, to the values resulting from the growth of the state library and the state cabinet of natural history as "invaluable aids to investigators in both science and literature" and declared that the annual convocations had resulted in a closer union between the academies and colleges.²¹

In January, 1868, the committee on education presented the proposed article on education to the convention in committee of the whole. So far as the purposes of this study are concerned, the essential portion was Section 4, which is given below for reference:

Sec. 4. The Legislature, at its first session after the adoption of this Constitution, shall elect, in joint ballot of the Senate and Assembly, a superintendent of public education, who shall hold his office for four years and until his successor is appointed. He shall have such powers, and perform such duties, and receive such compensation as may be prescribed by law.

The Legislature at the same session shall create a State Board of Education to consist of seven members; of which board the Superintendent of Public Education, the Secretary of State and the Comptroller, ex officio,

²⁰Ibid., p. 11.

²¹Ibid., p. 12.

shall form a part; and the other four members shall be elected or appointed as shall be provided by law.

The State Board of Education shall have general supervision of all the institutions of learning in this State, and shall perform such other duties as the Legislature may direct. The term of office and the compensation of the members shall be prescribed by law.²²

It will be readily seen that the proposed article would accomplish "unification" of control of the state's educational institutions by the abolition of both the Board of Regents and the superintendent of public instruction, and the substitution of a state superintendent of public education and a state board of education.

There ensued a two-day debate on the article which ran to some seventy pages of material in the official proceedings. Mr. Alvord of Onondaga county at once proposed an amendment eliminating paragraph one of the section, and substituting the following:

The office of the superintendent of public instruction is abolished. The powers and duties of such office shall be performed by the Secretary of State; and a separate bureau may be established in his office for that purpose by law.

In support of his proposal Alvord argued that the functions of the office had previously and with satisfaction

²²New York (State), Proceedings and Debates of the Constitutional Convention of the State of New York, 1867-68 (Albany: Weed, Parsons & Co.), Vol. IV, p. 2841.

²³Ibid., p. 2841.

been exercised by the secretary of state. The constitution of 1846 had not provided for any independent state officers, the inference from this argument being that the establishment of the superintendency in 1854 had been without constitutional sanction. The increase of the number of officials without regard for constitutional intent had resulted in diffusion of responsibility and lack of interest. The secretary of state had been reduced to a mere clerk, except for work as canal and land commissioners, hence he did not spend much time in Albany. The superintendent of public instruction had been made a financial officer, capable of drawing on the treasury, thereby by-passing the comptroller. If it were necessary to have a bureau in the secretary's office to carry on the work of the superintendent of public instruction, the legislature should have power to establish it.²⁴

Opponents of the Alvord proposal argued that constitutional power existed in the legislature to perform all acts not expressly forbidden, hence the establishment of the superintendency had been legal. The best interests of the schools required the services of a full time officer and the abilities of the best educator available; and the advances made in education would be lost if Alvord's proposal were carried.²⁵

²⁴Ibid., pp. 2841-42.

²⁵Ibid., pp. 2842-43.

From this point we are concerned with the rather remarkable performance of George W. Curtis who, as chairman of the committee, and thus charged with the defense of the proposed article, became the spokesman of the forces of opposition to the Board of Regents. In the process of reporting this section of the debate, it becomes advisable to resort to rather extensive quotation from the journal of the convention.

Curtis confessed a degree of embarrassment as he addressed the members, for the proposed article

virtually supersedes the Board of Regents . . . and I am a regent. I am, therefore, forced into the ungracious position of seeming to aim a blow at my . . . colleagues.²⁶

He pointed out that the state system of education included common schools and union free schools under the jurisdiction of the superintendent of public instruction, and academies and colleges subject to the control of the Board of Regents.²⁷

Before proceeding to his attack upon the power and prestige of the Board of Regents, Curtis reviewed briefly the history of the board, calling attention to the fact that among the one hundred and five members to that date had been some of the most illustrious names in New York State history:

²⁶Ibid., p. 2843.

²⁷Ibid., pp. 2843-44.

John /sic/ Schuyler, George Clinton, John Jay, James Kent, De Witt Clinton, Washington Irving. The regents were elected by the legislature for life terms which could be terminated by the legislature, or by the board itself for failure to attend meetings. Regents served the state without salary or fee. Curtis then proceeded to the first of his overt attacks upon the board:

. . . Their action is noiseless. They make no appearance in the newspapers. So quiet is their action . . . that at certain times it has been gravely suspected that they had probably ceased to exist at all. Now . . . it is undeniable that for a long period there has been a feeling on the part of the people of the State that the regents were a name. They have fallen into disrepute. I will not say . . . to what this may be attributable. Scholars shrug their shoulders and smile. Intelligent men, familiar with the affairs of the State, ask, "What is the Board of Regents; what are their functions?" There are citizens of the State who have even gone so far as to demand to see the University of the State of New York. There are other citizens who have a vague idea that the University of the State of New York is the institution in the city, which is the university of the city; and so far had this idea gone, so common and general had this feeling become, that the late poet Halleck, in one of his letters, humorously remarks, "I am becoming as ignorant of books and their authors as a president of a college or a regent of a university."²⁸

Curtis referred to the argument in the communication from the Board of Regents, that the colleges and universities of the state under the supervision of the regents constituted a university in the sense that Oxford and Cambridge

²⁸Ibid., p. 2844.

were universities:

. . . therefore every college in this State, from Niagara to Montauk . . . by an unblushing fiction . . . are to be collectively called the University of the State of New York . . . Of all practical romances in the State, this is the most prodigious, of all visionary institutions this is the most visionary; nor in all history do I know of any institution with which to compare this except it be that of which Carlyle makes mention in his Sartor Resartus, the celebrated university of Weissnichtwo, which being interpreted means, the university of "I am sure I don't know where."²⁹

Curtis next turned his attention to the extent of the authority of the regents over the institutions under their supervision, asserting that their influence derived from their visitorial power, which he disposed of in these words:

It is simply a power which practically consists in the reception every year . . . from these colleges . . . of a report, which I am very glad to state contains a great deal of the details of educational information. But . . . for any authority that the board has, for any real right of supervision, I think you will look in vain. If any college in this State should decline to send in its annual report to the regents . . . the result would simply be, I presume, that the regents would remonstrate, possibly, and that would be the end of the matter. . . . If the Board of Regents should go into any college of this State whatever, and assert any kind of authority, in the name of the State, the Board of Regents would be simply laughed at, and shown the door. . . .³⁰

Curtis dismissed the board's power of charter with a statement that charters might also be issued by the legislature,

²⁹Ibid., p. 2844.

³⁰Ibid., pp. 2844-2845.

and eliminated the regents from consideration with this remark:

. . . The Legislature of the State, holding this power in their hands, look upon this institution, this Board of Regents, as an extremely ancient and venerable body, not costing the State very much money, and upon the whole not worth rooting out of the corner of the Capitol in which it is to be found.³¹

Turning to the activities of the regents with regard to academic education Curtis listed the powers of the regents to charter, visit and inspect academies, to report upon their condition, and to distribute to them the literature fund, "upon certain conditions which they themselves prescribe."³² However, said Curtis, since this duty is performed for the board by the secretary of the regents and his clerical assistants, was it desirable that a separate board should be longer maintained?³³

Curtis conceded that there was no reason for any hostility on the part of the regents toward the department of public instruction, since their interests were the interests of education. He further admitted that the Board of Regents was an inexpensive department, but even that small cost would be reduced if the functions of the board should

³¹Ibid., p. 2845.

³²Ibid., p. 2846.

³³Ibid., p. 2846.

be given to a bureau in a department of public education.³⁴

He forestalled the expected argument that the proposed article would mix politics with education by pointing out that, if Alvord's amendment were accepted, politics would enter through the person of the secretary of state, who would bring politics into education if he were politically influenced in any way. However, Curtis declared, the risk of mixing politics with education was a chance that every state must take.³⁵ He closed his argument with the following interesting peroration:

Sir, in regard to the ancient and honorable body with which I have the honor to be associated, at most, if this section shall be adopted . . . my fate is theirs. If they go I go. If the ship is wrecked, I too am left weltering in the water. I honor with every man what is justly ancient. No man more than I perceives its value. If I could consult my personal respect and feeling for my colleagues; if I could for a moment consider my own personal pride; if I could yield to the charm that inheres in long tradition, I should as heartily oppose as I now sincerely approve and commend to the most earnest consideration of the committee the section which the Committee on Education has reported.³⁶

During the debate which continued in committee of the whole on the education committee's report, Mr. Hale of Essex county rose to the defense of the Board of Regents. He could see no reason for doing away with the distinction between

³⁴Ibid., p. 2846.

³⁵Ibid., pp. 2847-2848.

³⁶Ibid., p. 2828.

the two classes of schools, and asserted the opinion that if the Board of Regents had fallen into such disrepute Curtis should sever his connection with it. He believed that the fact that the board kept out of public notice was a credit to it, and that abolition of it by constitutional provision would merely serve to verify the common mistaken ideas about it. He also referred to the memorial which had been circulated, which was believed to have emanated from the office of public instruction, and stated his belief that the number of petitions received in opposition to the regents were fewer than the number demanding their retention. He could not see the connection between the Board of Regents and the free school law. Nothing in that law demanded the abolition of the board.³⁷ Hale continued:

The age of the Board of Regents has been referred to. It has been characterized as an "antiquated body" and the charge of "old fogysm" has been brought against its members. . . . I will admit that this board has certain old fogy attributes, which we do not see now-a-days as often as we would like to. . . . This board of gentlemen has, without any pay or reward whatever, performed the duties that are imposed upon it, and . . . has performed them well. I know it is exceedingly "old fogysm" for men to work in this generation without pay, and I find that the committee have guarded in this section against the continuance of such atrocious "old fogysm" by inserting in the section . . . a constitutional provision that "the term of office and compensation of the members shall be prescribed by law." Therefore, if this section shall be adopted, we shall have one modern improvement; in place of officers who perform their duties without pay, we shall have a board of gentlemen who, I have no doubt, will stand up and draw handsome

³⁷Ibid., pp. 2853-2854.

salaries without flinching.³⁸

Mr. Hale could see no objection to calling the aggregation of colleges a university. He believed that if the people objected to the name, a change could easily be made through the legislature. If the Board of Regents should be abolished, the legislature which created it should do so. Since the legislature had refrained from exercising this power for seventy years, he was in favor of letting it alone.³⁹

Mr. Alvord then withdrew his original amendment and substituted for it another reading:

The Secretary of State shall be superintendent of public education, and he shall have such powers and perform such duties as may be prescribed by law.⁴⁰

A. J. Parker of Albany stated that the secretary of state had ample time for the duties of superintendent of public education, since it was well known that the position of secretary had deteriorated to a "mere clerkship" except for the work carried on on the canal and other boards. He had been a member of the Board of Regents for ten years and believed that the board had faithfully discharged its duties. Although the members were chosen by partisan vote in the

³⁸Ibid., p. 2854.

³⁹Ibid., p. 2855.

⁴⁰Ibid., p. 2857.

legislature, the actions of the board had never been partisan. He took exception to the use of the term antiquated as applied to the board, and supported Hale's declaration that the board was antiquated only in that it performed its duties well without pay.⁴¹

Aye, it is antiquated, antiquated in one respect, that it is the only institution left in this State where public duties are discharged from merely patriotic motives, and without compensation. . . . They have a higher compensation in the consciousness of a public good. . . . Why does the gentleman from Richmond decry the institution known as the Board of Regents . . . ? It is antiquated; so are many other things. The Christian religion itself would fall under that condemnation. Why does he seek to remove gentlemen who are willing to serve without pay, to give their time and talents to the State without compensation, and to appoint a board that shall be political in its character, and that shall be paid out of the treasury of the State?⁴²

Parker asserted that the circular referred to previously had originated with a few men in Albany. Before the convention adjourned in September, only twenty-six petitions had been presented in favor of abolishing the Board of Regents and fifty remonstrances against it. In reply to a question from Curtis as to whether the remonstrances came from the Board of Regents, Parker replied that Curtis was a member and should know. He further declared that no college or academy had urged the abolition of the regents, while ten colleges and over fifty academies had sent in remonstrances

⁴¹Ibid., p. 2857.

⁴²Ibid., pp. 2857-2858.

against their abolition.⁴³ Parker further declared that the last report of the regents showed their ability to get reports from the academies and colleges. He called attention to the quality of the annual convocations, and asserted that public opinion would not approve the abolition of the regents.⁴⁴ In his closing remarks he outdid even the final statement of Curtis to whom he refers:

. . . When my friend from Richmond concluded his eloquent remarks, he could not refrain from singing in solemn and beautiful notes his own death song, in view of his approaching dissolution as a member of this board. He spoke in tones also solemn of the wreck which was about to be made; the ship that was to be stranded, in which he was a passenger with the rest. He saw around him the raging billows, and the scattered spars, and the regents (of whom he was one) struggling in the briny deep. . . . I trust, sir, that this is only a picture of the imagination, and that it will pass by as an idle dream, but if . . . he makes this great sacrifice for the public good, or rather for the good of gentlemen who are to be appointed to office on good salaries, he must not forget that he was the pilot that directed the ship upon that treacherous shore; he will not be able to excuse himself as did Palinurus of old, that he fell into slumber, for he has steered the ship upon the rocks with his eyes wide open; and I can tell him that if there should be a wreck he may well hang up his dripping garments in the temple of Neptune as a votive offering for his escape, for the people will hold him responsible for the great wrong he has done.⁴⁵

Parker was asked whether the regents, if the proposed article were adopted, would not still have control of the state library and the geological collections. He replied,

⁴³Ibid., p. 2858.

⁴⁴Ibid., p. 2859.

⁴⁵Ibid., p. 2859.

"I do not think they will have control even of the mastodon."⁴⁶ This brought laughter from the convention.⁴⁷

Mr. Verplanck of Erie county objected to placing control of education in the hands of the secretary of state, asserting that the superintendent of education should have no other duty, and should go about visiting schools which the secretary would never do. He moved to strike out from the proposed section four the portions providing for the establishment of the state board of education, eliminating all the rest of the proposed section.⁴⁸ He defended the use of the term university, which had been adopted at the suggestion of Alexander Hamilton, and never seriously questioned since. He declared that the popular idea that the regents sat in their offices and received reports was erroneous, the annual report showing that the members of the board had personally visited over sixty institutions.⁴⁹

⁴⁶This refers to a mastodon whose remains had recently been excavated at Cohoes and donated to the State Cabinet of Natural History.

⁴⁷Proceedings and Debates of the Constitutional Convention, 1867-68, Vol. IV, p. 2859.

⁴⁸Ibid., p. 2860.

⁴⁹The Journals of John V. L. Pruyn, who was then chancellor of the Board of Regents, show many entries to support this statement of Mr. Verplanck, for Mr. Pruyn was meticulous in his reporting not only of the visits he made, but of the meetings which authorities of the institutions had with him and his suggestions to them. A few years previous, in the late spring of 1862, Mr. Pruyn had reported in detail a tour of visits made in the company of Dr. Woolworth, in the course of which they traveled 108 miles by team or horse and carriage, in addition to travel by train.

Verplanck suspected that, since the new board would be salaried, it would be attached to the party patronage. He reported a suspicion abroad in the state that the motive for replacing the regents came not from the superintendent's office but from "learned and scholarly men having a great interest in the Cornell University" who "fear something from the Regents . . . or hope for something from a new board."⁵⁰ This idea met emphatic rejection from Mr. Gould of Columbia county and Curtis, who scoffed at the idea that opposition to the regents resulted from any jealousy on the part of anyone connected with Cornell.⁵¹

Continuing the debate, Mr. Smith of Fulton county in a long statement reviewed the history and activities of the Board of Regents, detailing especially the many activities of the board which were not familiar to the general public. He then struck at the proposed new board, asserting that its proponents proposed

to substitute for this body of able men . . . of broad views, . . . ripe scholarship, willing to devote their time and talents to the interests of the State, and the interests of education, without any compensation whatever . . . a body of hirelings! . . . These men that I have

The carriage journey took them from Fort Plain to Cherry Valley, thence to Cooperstown, Hartwick Seminary, Gilbertsville, Norwich, Oxford and Chenango Forks. Pruyn, Memo-randum Book as Chancellor of the Board of Regents, p. 17. In MSS. and Document Division, New York State Library.

⁵⁰Proceedings and Debates of the Constitutional Convention, 1867-68, Vol. IV, p. 2861.

⁵¹Ibid., p. 2861.

named would not--one of them--appear before the Legislature and ask for an appointment to office. . . . But make it a salaried office, and for a term of years, and you would have six-by-nine politicians, brawling, ignorant, low, cunning men, who understand political jugglery, besieging the Legislature for the appointment. In a little while . . . we should see the sacred interests of education committed to the care of men wholly unfitted for the important trust. . . .⁵²

Mr. Smith pointed out further that the long term of the regents enabled them to become familiar with the educational needs of the state. He asserted that until the convention began its sessions he had never heard any doubt expressed as to the efficiency and usefulness of the Board of Regents. He ventured a guess that all the petitions originated with persons who considered themselves champions of the common schools, who sent the petitions out to teachers to be circulated and sent in.

I have been unable to see any good reasons for abolishing the Board of Regents. . . . Let it still exist and serve the State in the interests of education, as it has done for more than eighty years. It is increasing its activity, and extending its usefulness more and more every year. It is faithfully serving the State without any compensation. . . . I trust that this Convention will pause long before they . . . blot out forever from the activities . . . of the State, that ancient, useful and honorable body, the Regents of the University.⁵³

Mr. Alvord, presumably exhibiting some effects of the eloquence of the proponents of the Board of Regents,

⁵²Ibid., pp. 2862-2864.

⁵³Ibid., p. 2865.

proposed at this point to amend the section by eliminating the clause concerning the fixing of a salary by the legislature, and adding a no-salary clause. He believed that the regents would be willing to serve the new board in an advisory capacity, or if eliminated, some of the members would serve the state on the new board. He echoed the argument that the original proposal would result in membership being sought for financial and political reasons.⁵⁴ Gould supported this motion, asserting that control of education should be in the hands of men trained for the work. He, however, did not want to detract from the credit due the Board of Regents, and charitably declared that the regents should retain control over the geological hall and the state library.⁵⁵

Mr. Verplanck asked Gould if the regents would wish to continue in office merely for the purpose of managing the library and geological collections. Gould replied that it would be no more a misnomer to call them regents of the university under those circumstances than it was now. He asserted that he had been told by college presidents that they hardly knew of the existence of the regents, and declared that the board so far as education was concerned was "simply a farce." He doubted whether the convocations

⁵⁴Ibid., pp. 2865-2866.

⁵⁵Ibid., p. 2867.

accomplished any real good, and stated flatly that all the educational functions of the regents were performed by the secretary alone, who would undoubtedly be continued as a member of a new board.⁵⁶

Mr. Gould could not see how jealousy could be alleged between the common schools and academies. He did not know the secret motives of the signers of the petitions and believed they had acted in good faith.

Mr. Smith then quoted from a memorial just handed to him, urging abolition of the Board of Regents:

There is an antagonism between private and public schools. In all the villages in which academies have been incorporated and established, it has been difficult, and for the most part, impossible, to get a vote in the district school meetings to raise money necessary to build sufficient and decent school-houses for the accommodation of children whose parents are not able to pay their tuition in the academy.⁵⁷

To Gould's statement that the quotation indicated rather jealousy of the academies against the common schools, Alvord replied that the petition quoted emanated from "professed friends of the common schools."⁵⁸

E. A. Brown declared that he was unable to see the reason for the petitions asking abolition of the Board of Regents. Referring to the alleged antagonism between the

⁵⁶Ibid., p. 2868.

⁵⁷Ibid., p. 2869.

⁵⁸Ibid., p. 2869.

common and higher school systems, he read from the petition a statement asserting that

colleges and academies are generally . . . denominational schools, patronized and supported as well as founded by the various religious denominations. The public money appropriated to them is, therefore, indirectly used in propagating religious tenets or . . . in aid of competing sects.⁵⁹

A few minutes later Alvord declared this statement to be a "libel."⁶⁰

Mr. Alvord read further from the petition, noting that the first two names signed to it were those of clerks in the office of public instruction.

Possessing wealth and influence enough to control the action of the majority of voters, the patrons of the academies have opposed any liberal provision for the education of their less favored neighbors. Thousands and thousands of the children of the poor have thus been deprived of proper school facilities; a poor school-house and a cheap teacher have been good enough for them. We do not believe in the propriety of encouraging, by the distribution of the public money, the continued existence of such academies as directly or indirectly obstruct the free school system. . . . We object to discrimination against the poor and in favor of the rich. We hold that a Christian State should make ample provision for the many before it is lavish in its provisions for the few.⁶¹

Alvord asked whether the convention should lend itself to the campaign which had been launched in favor of the common

⁵⁹Ibid., p. 2870.

⁶⁰Ibid., p. 2872.

⁶¹Ibid., p. 2871.

schools and against the higher institutions. He declared that the money appropriated to the academies had been a mere pittance.⁶²

Mr. Hale replied to Curtis' charges that the regents lacked authority over colleges and academies by quoting the law which "authorized and required" the regents or their committees to visit and inspect colleges and academies, and report on their visits. The law further authorized the regents or their committees to require proof or information verified by oath, and gave them the power possessed by the legislature to send for persons or papers. The law further required all colleges and academies subject to the regents to make annual reports not later than November 1, but Hale acknowledged that the regents could act upon the reports only by reporting the facts to the legislature.⁶³

Mr. Curtis returned to the fray with an assertion that the opponents of the education committee's proposal were attempting "sedulously and harmoniously" to confuse the issue, which he declared to be simply one of determining which was the most practical system for the state. He declared that the arguments in behalf of the regents could be summed up in two statements: the Board of Regents was an old institution and they had performed their duties acceptably.

⁶²Ibid., p. 2872.

⁶³Ibid., pp. 2872-2873.

He agreed to the latter in general, but thought that age, however charming and romantic, was principally desirable in such things as wine, but not in bread or eggs. He could see no reason for two boards of education in the state. He thought that education should be under the control of a body with "vast and energizing influence," coming fresh from the people.⁶⁴

Mr. Smith declared that, since the existing system had worked well for eighty years, the burden of proof should be on those who proposed a change to show the necessity for it. He thought that the reference to two boards was inaccurate; the only board then in existence was the Board of Regents, of which the superintendent of public instruction, a single officer, was an ex officio member. He declared it was becoming evident that "this raid upon the Board of Regents" had originated in the convention in a spirit of hostility to the cause of higher education. There was no feeling of hostility to common school education on the part of the regents. As late as 1867 they had urged the extension of normal school education to provide better teaching for the common schools. He questioned whether a board of seven serving for pay would be more likely to foster and advance the cause of education than the regents had done. Proponents of the new proposal urged that education should be a unit; he believed that it was then a unit and that the regents

⁶⁴Ibid., pp. 2873-2874.

sought to maintain it as such.

If the regents have not possessed the confidence of the people, why has not the legislature been asked to abolish the board? If there is to be any change, let it be left to the Legislature. Let us not put the matter into the Constitution, but leave it flexible and plastic in the hands of the Legislature, to be molded and shaped in the future as the wishes of the people and the interests of education may demand.⁶⁵

A. J. Parker declared that there could be no doubt that a deep-seated hostility to colleges and academies was at the bottom of the movement. He quoted from the memorial concerning the statutory provision for matching local appropriations for apparatus. The petition asked why this bounty was conferred on the few academic scholars, and not on the million primary pupils. This passage proved to him that hostility to the academies was the basis for the attack on the regents, and he stuck to his point in a spirited passage of words with Curtis.⁶⁶ He asserted that the memorial had definitely come from the office of the superintendent of common schools, and the convention should not encourage hostility to higher education by giving consideration to the proposed change. He reminded the convention that if the Board of Regents was antiquated, so also was the Magna Carta, and denied that there was any instance in which the regents had dealt with any school in a partisan manner. He charged

⁶⁵Ibid., p. 2877.

⁶⁶Ibid., pp. 2878-2879.

again that a desire to create jobs was behind the proposed change.⁶⁷

The convention, still in committee of the whole, accepted the amendment by Alvord providing that the secretary of state should be superintendent of common schools with such duties as the law might prescribe, and voted down a motion of E. A. Brown that the committee of the whole should rise. It failed to take action by a tie vote of 23 to 23, with no quorum voting, on Verplanck's motion to strike out all after the first paragraph of the proposed section; then carried a motion to allow the committee of the whole to rise, report progress, and obtain permission to sit again.⁶⁸

On the following day, January 21, 1868, the convention again went into committee of the whole on the Verplanck proposal to strike out all of the section after the first paragraph. Mr. McDonald of Ontario county offered a motion providing for a superintendent of public instruction elected by the voters of the state, and a board of education selected according to provision of the legislature, but serving without pay.⁶⁹

Mr. Verplanck opposed the McDonald proposal, repeating earlier statements that the Board of Regents had always been able and non-partisan, and that the legislature had

⁶⁷Ibid., p. 2880.

⁶⁸Ibid., p. 2881.

⁶⁹Ibid., p. 2882.

never considered its abolition. Mr. Smith of Fulton county pointed out that the McDonald proposal made the superintendent the head of the new board of education, and that he would thus exert such political power as no officer should possess.⁷⁰

Mr. Curtis replied with some heat to the Smith and Verplanck arguments, asserting that there was no conspiracy against the academies; that the change was not sought because of hostility to or criticism of the regents, and that the opposition to date had not indicated any valid reason why the single control should not be adopted. He declared,

The committee come to this subject with minds as unprejudiced as to any subject which has been submitted to any committee, . . . feeling . . . that this . . . cornerstone of the safety, prosperity and permanence of republican institutions, should have no divided or uncertain care.⁷¹

Mr. Alvord was opposed to putting the proposed change into the constitution, for if it proved to work badly it would have to stay as it was until a new constitution could be made. The Board of Regents was composed of erudite men, who, it is true, were not teachers, professors or college presidents, but who were capable as a result of both political experience and general education. Instead of eliminating the regents, they should be made the single power in education

⁷⁰Ibid., pp. 2886-2887.

⁷¹Ibid., pp. 2887-2890.

with control of the common schools also.⁷²

M. I. Townsend insisted that the opposition to the committee's proposal must come directly from the Board of Regents itself, and that the new board would be no more subject to political influence than the old. He thought the committee's aim was to have a

living, active man, and not a clerk in a coal hole in one of the State offices, to be at the head of public instruction.⁷³

The committee of the whole voted to rise and report progress, and to consider the article further in convention.⁷⁴ Mr. Hadley proposed that the section should be amended by making the superintendent elective rather than appointive. He believed that the official should be provided for by law rather than in the constitution, but at least he should be elective. The convention after brief debate voted down his amendment.⁷⁵

A proposal to modify the statement of duties of the education board to include such supervisory duties as were exercised by the Board of Regents was ruled out of order.⁷⁶ The convention next voted down the Alvord amendment to

⁷²Ibid., pp. 2892-2894.

⁷³Ibid., pp. 2894-2895.

⁷⁴Ibid., p. 2897.

⁷⁵Ibid., pp. 2902-2903.

⁷⁶Ibid., pp. 2903, 2906.

substitute the secretary of state for the superintendent of public instruction.⁷⁷ After some further maneuvering Verplanck's earlier motion to strike out all of the section after the first paragraph, which would eliminate the proposed state board of education, was accepted.⁷⁸ Finally, on motion of Mr. Folger, the convention agreed to strike out all the section not affected by the Verplanck amendment, which of course eliminated the provision for a state superintendent of public education. To this motion Curtis gave his support.⁷⁹

The net result of this maneuvering so far as changes affecting the two competing departments were concerned, was exactly nothing, except for a thorough airing of the differences in opinion. Since the constitution except the judiciary article was rejected by the voters at the fall election of 1869, nothing would have resulted even had one of the hotly-debated proposals been adopted.

Thus ended the first serious threat to the prestige of the Board of Regents. It is interesting to notice that in spite of the vigor of the debate in the convention the dignified calm of Chancellor Pruyn seemed hardly to be ruffled by the storm, if one is to guess from the rather

⁷⁷Ibid., p. 2906.

⁷⁸Ibid., pp. 2907-2908.

⁷⁹Ibid., p. 2908.

meager entries in his journals. Under date of August 29, 1867, he mentions meeting with the education committee of the convention, and says:

The Committee, especially Mr. Curtis, the chm. seem to be in favor of a board of seven or nine members to supersede the Regents and the Supt. of Public Instruction. I expressly avoided saying anything as a member of the Board of Regents but among other things pointed out the result of a paid board, that is, that it would become a political board.⁸⁰

The following day Pruyn mentions simply that he, Dr. Woolworth and Mr. Perkins again "went before the Com. of the Convention on Education and discussed the subject further."⁸¹ His final entry in the matter, under date of September 3 of the same year, states that he attended a meeting of the board which he had called, in consequence of the "application now pending before the legislature to abolish the board. A committee on the subject was appointed with power."⁸² Since the legislature was not then in session, Pruyn evidently refers to the discussion in the convention.

In the following chapter we shall see several efforts made to accomplish by legislative action the changes proposed in the convention, and the fate of these proposals.

⁸⁰Pruyn Journals, Vol. 5, August 29, 1867.

⁸¹Ibid., August 30, 1867.

⁸²Ibid., September 3, 1867.

CHAPTER VII

TWENTY-FIVE YEARS OF FRICTION

Almost immediately after the roar of battle in the constitutional revision convention of 1867-68 had died away, the struggle was renewed in the halls of the legislature. During the 1869 session a bill was introduced under the title "An act to abolish the Board of Regents of the University, and to establish a State Board of Education." The committee on public education of the Assembly reported to the house instead a proposed resolution which was carried:

Resolved, that the Superintendent of Public Instruction be and he is hereby instructed to inquire into the propriety of abolishing the present Board of Regents of the University, and to report to the next legislature, without expense to the State, what legislation, if any, is necessary to place our academies, colleges and free schools under a more efficient administration.¹

Obedient to these instructions, Superintendent Abram R. Weaver in his annual report for 1870 devoted some fifteen pages to a consideration of the assembly resolution. The first part of his report was a reasonably accurate and objective survey of the powers and duties of both the superintendent of public instruction and of the Board of Regents. He summarized, also quite objectively, the arguments used

¹New York (State), Assembly Journal, 1869 (Albany: The Argus Co.), Vol. II, p. 1983.

by proponents of a change in administration:

. . . It is charged by the advocates of the proposed change, that the Regents are a cumbersome body, without effective vitality; that they occupy a part of the field without cultivating it; that they deal in ceremonies instead of practical measures; and that their influence tends to perpetuate an unnatural and unfortunate severance of the schools into two systems, under the control of two distinct departments, and the consequent division of educational interests, efforts and resources; and, further that the Superintendent of Public Instruction has too much power. They contend that the State should have but one system, and that it should be a unit; that all schools, of whatever class or grade, which the State in any degree fosters or controls, should be embraced in that system, and that it should be administered by a board of education.²

Mr. Weaver pointed out that the movement in the legislature was substantially a repetition of what had taken place in the convention, with the differences that in the former case it had been proposed to retain the superintendent, and to put both him and the state board of education on a constitutional basis.³ He asserted his belief that it was for the legislature to determine, as had been charged, whether the powers of the superintendent were too great. It was his judgment based on familiarity with the office that the head of the department of education should be a single officer, acting upon his own responsibility, not as the agent of a

²New York (State), "Report of Superintendent of Public Instruction," Assembly Document No. 84, 1870, (Albany: The Argus Co.), p. 64.

³Ibid., p. 65.

board, and that he should be accountable to the legislature.⁴ Most of the duties performed by the superintendent were routine in that they were prescribed by the statutes, which the board would be bound to follow, and it would be necessary for a board to be in almost constant session unless it delegated its authority to an agent. Such an arrangement would constitute an "incongruous organization."⁵ He declared that if a board of education were created, it should be made subordinate to the head of the department.⁶

Proceeding to the Board of Regents, Superintendent Weaver was hardly consistent. He admitted that the contemplated university had not been established, and stated flatly that the organization of the regents was defective, with regard both to their own work and their relationship to other departments. He continued:

It is doubtless the case also that membership has at times been disposed of as a complimentary recognition of eminent personal respectability and position, without reasonable grounds for expectation that the required service would be rendered; and yet I believe that the body has at all times embraced a goodly number of working members, earnestly devoted to their duties. . . .⁷

Mr. Weaver conceded however, that while accusations against the regents had been abundant of late, there had

⁴Ibid., p. 65.

⁵Ibid., p. 65.

⁶Ibid., p. 66.

⁷Ibid., p. 66.

been no proof that they had not performed their duties creditably.

The burden of the complaint against them is not that they have been faithless to the duties imposed upon them under existing laws, but that the results arising from their supervision are not such as might be desired.⁸

Pointing out the limited nature of the powers of the regents, the report continued in more favorable tones:

If it is desirable to exercise a more careful and scrutinizing supervision over the colleges and academies, it may be accomplished by means of legislation, without abolishing the Board of Regents. The charge, that they have done little for those institutions, is answered by the fact that they have had little authority and means to do with.⁹

If the higher institutions were not so vigorous as the common schools, it was because they had not had such ample resources and "thorough administrative discipline," since the state had never undertaken to provide free academic instruction.¹⁰

The academic departments in the union free schools were free only by local voluntary taxation. Public funds apportioned to union free schools might be used only for the common school grades. Those academies which remained continued to exist because they had neither been absorbed

⁸Ibid., p. 66.

⁹Ibid., p. 67.

¹⁰Ibid., p. 67.

by the community nor proscribed by the state.¹¹

Mr. Weaver called attention to the fact that the state system of common school education was organically a unit consisting of 11,750 schools supported according to a general plan.

To unite with these schools the academies as now organized, would not produce uniformity. The association of chartered academies, charging for tuition, with free public schools, would constitute not a homogeneous system, but an incongruous combination. . . . The only process by which they can be assimilated is to charge for tuition in the common schools, which is not contemplated, or to make the academies free, which . . . is the logical sequence of the proposition to unite them. . . .¹²

The higher institutions should have supervision, but Weaver did not think that the control of common schools should be committed to the charge of a body established particularly to visit academies and colleges. Such a board should be a branch of a single-headed department of government, and the board should report to that officer instead of to the legislature.¹³ He did not believe there was any reason for the creation of two education departments reporting to the legislature, nor did the duties performed demand the continuation of two departments.¹⁴

¹¹Ibid., p. 67.

¹²Ibid., p. 68.

¹³Ibid., pp. 71-72.

¹⁴Ibid., p. 72.

It is no more essential that the Regents remain an independent body in order to carry out faithfully the duties imposed upon them, respecting colleges and academies, than that the school commissioners, who perform similar duties in respect to the common schools, should have an organization independent of the department, and also report directly to the Legislature.¹⁵

Mr. Weaver believed there should be unity of control over all institutions deriving any portion of their support from the state, or organized under its laws or charters. However, it would not be necessary to abolish the Board of Regents or create a new board. A new board could not replace the school commissioners, nor could it perform the duties then assigned to the regents with greater fidelity or ability, and the expense of such a board would be much greater.¹⁶

He recommended (1) a limitation of the term of office of regents thereafter elected to a definite number of years, and that (2) the Board of Regents be made part of the department of education, required to visit and inspect the normal schools and to report to the superintendent, who would incorporate their report in his to the legislature.¹⁷

Two days after the passage of the assembly resolution which brought forth Weaver's report, Mr. Van Pelton in the Senate offered the following resolution, which was passed:

¹⁵Ibid., pp. 72-73.

¹⁶Ibid., p. 73.

¹⁷Ibid., p. 74.

Resolved, that the Regents of the University be instructed to report to the next Legislature, what, in their judgment, should be the powers of a board of visitation of the colleges and academies of the State, and whether any change in the organization of that board is desirable to render it more efficient in the supervision of those institutions.¹⁸

In the journals of Chancellor Pruyn there appears under date of November 25, 1869, reference to a meeting of a committee of regents appointed to consider the senate resolution. Pruyn says in his conservative fashion that the committee, consisting of regents Benedict, Johnson, Perkins, and Leavenworth, "canvassed the matter in all its aspects, & the draft of a report to the Legislature is hereafter to be considered."¹⁹

Early in January, 1870, the chancellor referred again to the matter, reporting a meeting with Judge Johnson at the regents' office. He further reports that they saw Superintendent Weaver, and that Weaver was "decidedly of the opinion that his department must be managed and controlled by one head--not by a Board." Weaver believed, according to Pruyn, that a board was necessary for the supervision of the colleges and academies, under whatever name it might be, but that the present board might be classified into groups as to

¹⁸New York (State), Senate Journal, 1869 (Albany: The Argus Co.), p. 1152.

¹⁹John V. L. Pruyn, Memorandum Book as Chancellor of the Board of Regents, November 25, 1869. In MSS. and Document Division, New York State Library.

terms of office, resulting in continuity in membership.²⁰

Late in March the Board of Regents handed to the Senate its reply to the resolution of the previous spring. The report pointed out that the public common schools were supervised by public officers, headed by the superintendent of public instruction, whose powers must necessarily be extensive, and whose decisions must be final. If the academies and colleges were institutions of the same nature as the public schools, their supervision by the state would necessarily be of the same comprehensive character as that given the common schools. Since, however, these institutions have had their origin chiefly in voluntary private action, and are mainly supported by the payment of tuition fees, it seems obvious that the state cannot extend to them the same detailed supervision exercised over the public schools.²¹

However, the report continued, the academies and colleges were, in their relation to the state, quasi public institutions, which demanded watchfulness and guardianship on the part of the state, as the authority which had given them corporate existence. The funds of these institutions were chiefly raised by subscription, with some small grants from the state, therefore the state's responsibility was

²⁰Ibid., January 6, 1870.

²¹New York (State), "Special Report of Regents of the University," Assembly Document No. 82, 1870, (Albany: The Argus Co.), p. 30.

mainly to see that the funds were properly applied.²²

A board of visitation, in the opinion of the regents, should have the following powers: (1) The board should have exclusive power to incorporate colleges and academies under general regulations. With this power the legislature should not interfere, except to modify the organic laws under which it was exercised.²³ (2) The board should have power to require reports in the forms which it should prescribe, of "the literary and financial condition" of each institution, and the manner in which its affairs had been conducted. (3) The board should have power to investigate the affairs and condition of any institutions whenever necessary in the judgment of the board or its representatives. (4) The board should have power of personal visitation by its committees or officers, and of adopting any measures which in the judgment of the board would be calculated to improve the character of academic or collegiate education offered in the institution, and "to bring the academies and colleges into united and harmonious action as parts of the University of the State." The use of coercive powers or the infliction of penalties would seldom be required and would not be desirable.²⁴

²²Ibid., p. 30.

²³This statement referred to the several cases in which the legislature had incorporated schools without the approval of the regents, in some cases without requiring the financial endowment which the regents demanded.

²⁴Assembly Document No. 82, 1870, p. 31.

The regents then referred to the second question in the resolution, whether any change in the organization of the board would be desirable to make it more efficient in the performance of its duties. The regents declared that they then possessed most of the powers which they had listed as desirable for a board of visitation, for the statute conferred on them the powers "to visit and inspect" and "to send for persons and papers." Since the board served without pay, it was not reasonable to expect as much activity from it as from an organization on salary.²⁵ Then appears a paragraph which could be considered as a direct reply to the critics of the board:

The work of the Board has been quiet and unostentatious, but constant. It has been performed by gentle influences and kindly advice, and not by the exercise of coercive power. The Regents have never asked for an extension of their powers, and they are of the opinion that the powers now possessed. . . are as large as any visiting board requires.²⁶

The tenure of office of the board, the report admitted, was usually long. However, the ex officio members changed frequently, and non-attending members were replaced. The fact that only six members constituted a quorum facilitated the holding of meetings. The report referred also to the other duties of the board: the supervision of the state cabinet of natural history, and of the state library with

²⁵Ibid., p. 32.

²⁶Ibid., p. 33.

its system of state and international exchanges of materials; the direction of the teachers' training classes, and with the superintendent, of the state normal school at Albany; and the maintenance of the state boundary markers. The board believed that no extension of its powers or change in its organization would be necessary.²⁷

On April 12 of that same year a bill was introduced into the Assembly by Mr. Flagg of Rensselaer county, proposing to create a department of education, and "to reorganize the board now known as the Regents of the University of the State of New York."²⁸ Four days later Flagg for the committee on public education reported in favor of the passage of the bill. The house agreed to the report and sent the bill to committee of the whole. However, on motion of Flagg the bill was returned to the committee on public education.²⁹

The journals of Chancellor Pruyn at this point, under date also of April 16, indicate something of the purposes behind the bill. In his usual reserved fashion he reported that the bill had been receiving considerable attention from him and Dr. Woolworth, secretary of the Board of Regents. He stated further that Flagg, chairman of the education committee,

²⁷Ibid., p. 33.

²⁸New York (State), Assembly Journal, Vol. II, 1870 (Albany: The Argus Co.), p. 1052.

²⁹Ibid., p. 1247.

had advised them of the bill, and had declared that they should have a hearing. However, the committee had overruled him and directed him to report the bill, "at which he is much annoyed." A certain Mr. Cassidy, not otherwise identified, who according to Pruyn had had much to do with the proposal, had admitted that the purpose was political, the aim being to re-elect Weaver as head of the state public school system under another name, and without waiting for the regular time of election during the next term of the legislature. Pruyn objected to this political move, saying that if a new law was needed, one should be framed which would be less objectionable to the regents. He disliked the proposal in the bill that the regents should report to the superintendent and not to the legislature. There was no excuse for such a proposal, nor was it warranted by the facts. Further, he thought that it was unnecessary to increase the Board of Regents to thirty members.³⁰ He reported also interviews with Cassidy and with Superintendent Weaver and Cassidy jointly:

I stated my objections to the proposed law on all grounds very frankly & canvassed the different provisions of the Act--To some of them I said the Regents I believed would have no objections--and that a law might be proposed comparatively unobjectionable. Mr. W. promised to consider the matter & let me know his views. . . . Mr. Corning, Governor Hoffman, Judge Perkins, Mr. Snow /_?_/ of the Assembly knew nothing

³⁰Pruyn Journals, April 16, 1870.

about the proposed movement.³¹

On Monday, April 18, the committee on public education through Flagg reported the bill with amendments. The house agreed to the report and ordered the bill engrossed for third reading. On further motion by Flagg the bill was ordered printed immediately and put on special order for twelve o'clock noon on the following Wednesday.³² Efforts made by Alvord when the bill came up on special order, to amend it, eliminating among other features the requirement that the regents report to the superintendent, were defeated, and the bill was passed by the Assembly by a vote of seventy-one to thirty-six.³³

In the Senate the bill was subjected to considerable maneuvering, and after being passed by the upper house by a vote of eighteen to ten,³⁴ was returned to the Assembly with only the enacting clause left as it had emerged from the senate education committee. The senate version, which was much like the assembly bill, provided for a rather thorough-going revision of the educational control system. The department of public instruction and the office of

³¹Ibid., April 16, 1870.

³²Assembly Journal, 1870, Vol. II, p. 1305.

³³Ibid., pp. 1374-1375.

³⁴New York (State), Senate Journal, 1870 (Albany: The Argus Co.), p. 965.

superintendent were to be abolished, and in their place was set up a department of education and the office of state superintendent of education. The present superintendent was to occupy the new office for three years, after which the legislature in joint ballot would elect a superintendent the first Tuesday in April every third year. The powers of the superintendent of education were to be those of the present office plus any to be thereafter conferred, and the salary was to be \$5,000 annually. The Board of Regents was to consist of nineteen members, the present members holding office for life. Vacancies caused by death or resignation were to be filled by the legislature for ten year terms. The bill retained the disputed provision that reports of the regents should be made to the superintendent, and required the regents to visit and inspect the normal schools, which would be governed locally by boards of nine trustees appointed by the superintendent. Distribution of the literature fund, heretofore paid by the comptroller on certificate of the regents, was now to be by certificate of the superintendent on recommendation of the regents. A similar provision was inserted covering funds in aid of teachers' training classes. Any act relating to the regents, not inconsistent with this law, should be continued in force.³⁵ The bill in this amended form passed the lower house on April 26.³⁶

³⁵Assembly Journal, 1870, Vol. II, pp. 1828-1830.

³⁶Ibid., p. 1830.

Several rather indefinite references in Chancellor Pruyn's diary at this point indicate that there had been an agreement with members of the Senate to protect the interests of the Board of Regents. He felt quite definitely that the substitution which took place in the Senate showed "bad faith in some quarters."³⁷ On this same day Pruyn took his case to the governor, who was out of town, and the chancellor left word that he wished to see the chief executive as soon as he returned.³⁸

A week later Pruyn, accompanied by Erastus Corning, whom he had seen the previous Sunday about the matter, and by Mr. Benedict of the Board of Regents, called on Governor Hoffman. The matter of the Flagg bill as passed was thoroughly aired in the conversation with the governor, including the charge of bad faith in the maneuvering which had resulted in the passage of the amended bill. Exactly what had taken place during this parliamentary activity is somewhat difficult to determine, since the printed bills for that period do not seem to be available. The situation must, therefore, be reconstructed from such references as those in the Pruyn Journals. Pruyn reported that Governor Hoffman, to his surprise, said that someone in Weaver's office had told the governor's secretary that someone in behalf of the

³⁷Pruyn Journals, April 30, 1870.

³⁸Ibid., April 30, 1870.

³⁹Ibid., May 7, 1870.

regents had attempted to prevent the passage in the Senate of the amended bill, which apparently had been reasonably acceptable to the regents.³⁹ Therefore friends of the measure had felt justified in restoring the more extreme assembly measure. Pruyn "utterly denied" the truth of this rumor, and pointed out that in a note from Dr. Woolworth to the governor, it had been noted that the delay in the proceedings was caused not by opposition from the board but by Weaver who had retained the amended bill from Thursday to Saturday. In the meantime Pruyn had seen Mr. Murphy, chairman of the senate education committee regarding the bill. Pruyn surmised that Weaver had regretted agreeing to the amendments, and that the scheme had been devised to restore the original bill. He felt that this was true because Weaver's deputy had stated to Dr. Woolworth on Saturday that the amended bill amounted to nothing so far as the regents were concerned.⁴⁰

A week later Pruyn's journal showed the following entry:

Among my letters this A.M. I found one from Senator Murphy on the Regents bill, showing a clear violation of good faith on the part of Mr. Weaver, who notwithstanding his agreement to the bill as amended . . . by the Senate Committee, interfered to procure the passage of the bill as it came from the Assembly. I sent Mr. Murphy's letter to Governor Hoffman--Kept a copy and

³⁹Ibid., May 7, 1870.

⁴⁰Ibid., May 7, 1870.

read it to Mr. Corning, who is to see the Governor.⁴¹
/Italics in original/

It appears that Governor Hoffman was affected in some degree by the revelations resulting from these conversations, or by the influence of Corning, or possibly by considerations of policy in other respects, for there is no evidence in any of the official records of any further action on the bill. There is no record of the bill being returned without executive approval, either in the legislative journals, nor in the executive messages. Evidently it was allowed to die without action on the part of the governor.

The matter of changes in control of education apparently rested at that point, for the next reference we have been able to find in the literature examined is under date of January 30, 1874, in the Pruyn Journals. The Chancellor reported a visit from Edward Sheldon and Dr. McVicar, whom he erroneously describes as the "superintendents"⁴² of the state normal schools at Oswego and Potsdam. Their purpose was a discussion of means of lifting the office of superintendent of public instruction out of party politics, with the possibility of having him appointed by the Board of Regents. They suggested as a further alternative that the

⁴¹Ibid., May 15, 1870.

⁴²At this period the chief executive officer of the normals was called "principal."

powers of the department might be given to the regents. Pruyn replied that the regents had never asked for further powers, but would assume any given to them by the legislature.⁴³

We /Pruyn and Woolworth/ cordially agreed with them on the importance of making an effort to put the office on an independent stable footing, in order that it might command the highest order of ability in the incumbent. They intend to make a thorough effort to carry out their views, sensible that there are great difficulties in the way, especially with the politicians.⁴⁴

Apparently there were criticisms abroad of the regents and especially of the academies in the state, for about three weeks later Chancellor Pruyn refers to such disapproval in his journal, ascribing it to "the legislature and the press," and says that he and Dr. Woolworth had prepared statements on the subject, and that they had gone over the matter with Rev. Dr. Upson, another member of the Board of Regents.⁴⁵ Evidently the criticism in the legislature had resulted in action in the Assembly rejecting an appropriation to academies, undoubtedly the annual appropriation for teachers' training classes, since the literature fund allotment could not be held up. Ten days after the reference noted above, Chancellor Pruyn entered in his journal a note that this action of the Assembly and "the proposal to give

⁴³Pruyn Journals, January 30, 1874.

⁴⁴Ibid., January 30, 1874.

⁴⁵Ibid., February 17, 1874.

to the Regents the power to appoint the Superintendent of Public Instruction" had occupied a large share of his time for the past two or three weeks.⁴⁶

On March 2, Mr. Bostwick of Ithaca introduced into the Assembly a bill bearing the innocuous title "An act relative to public instruction." It was, as usual, referred to the committee on public education.⁴⁷ A similar bill was introduced in the Senate by Mr. Wood, and was duly committed to the keeping of the committee on literature.⁴⁸

The following day we find in the journals of Chancellor Pruyn the statement that by request of the Committee of the Friends of the Academies, he appeared before the finance committee of the Senate in behalf of attempts to restore the \$125,000 grant to academies, which had been eliminated in the Assembly. He says simply that he "made remarks . . . as to the legal status and the work and position of the Academies" but states that after he left to attend a joint meeting of the education committees of the two houses, Weaver made a violent speech attacking the academies.⁴⁹ At the joint meeting of the education committees Pruyn stated

⁴⁶Ibid., February 27, 1874.

⁴⁷New York (State), Assembly Journal, 1874 (Albany: Weed, Parsons & Co.), Vol. I, p. 464.

⁴⁸New York (State), Senate Journal, 1874 (Albany: Weed, Parsons & Co.), p. 313.

⁴⁹Pruyn Journals, March 3, 1874.

that the regents had nothing to do with the proposal under consideration, in which he was corroborated by Bostwick and McVicar. During the more than twenty-five years of his connection with the board, the regents had never sought power, but they would faithfully endeavor to discharge any duty entrusted to them.⁵⁰

The Board of Regents continued to press their position in the days following, while the Bostwick and Wood bills were still in committee. On March 6 and 7, Pruyn reports conferences in the regents' office on the matters before the legislature, and an interview between him and Senator King.⁵¹ Three days later he reported an encouraging interview with Governor Dix:

He is opposed to any interference with the Board-- His relations with it date back more than a third of a century & he is familiar with its workings.⁵²

The next day the Board of Regents following a long, informal discussion of the proposals before the legislature, appointed a committee of five with Chancellor Pruyn as chairman to present the views of the board to the legislature:

The resolution affirmed the point of view which I had taken unofficially in all the discussions with members of the Legislature and others, that the Board did not

⁵⁰Ibid., March 3, 1874.

⁵¹Ibid., March 6-7, 1874.

⁵²Ibid., March 10, 1874.

seek power, and would endeavor to meet any responsibility which might be thrown upon it.⁵³

On the 15th Pruyn states simply that he and members of the regents' committee, including Leavenworth, Pierson and Upson, attended the joint meeting of the education committees of the legislature to consider the question of the method of appointing the superintendent of public instruction.⁵⁴ On the 20th, two days after the bills were reported favorably by the respective committees and referred to committees of the whole,⁵⁵ Pruyn reports that

Mr. Bostwick, chm. of the Education Com. of the Assembly dined with us. His home is at Ithaca--He is a bright, pleasant person.⁵⁶

In the Assembly on March 19, on motion of Alvord, the bill was made a special order for March 26, immediately after the reading of the journal. After the committee of the whole had considered the bill and reported progress, Alvord again moved a special order for March 30, which was agreed to, and after the second consideration, the bill was again made a special order, this time for April 2. Thereafter the Assembly Journal carried no reference to the bill

⁵³Ibid., March 11, 1874.

⁵⁴Ibid., March 15, 1874.

⁵⁵Assembly Journal, 1874, Vol. I, p. 698; Senate Journal, 1874, p. 382.

⁵⁶Pruyn Journals, March 20, 1874.

until April 10 when it reappeared with the same title as the senate bill and was sent back again to committee of the whole.⁵⁷

In the Senate the progress of the companion proposal was a little more expeditious. Considered in committee of the whole on April 2, the bill was made a special order for 1:45 P.M. on April 3, when it was ordered engrossed for the third reading. Under an amended title "An act to unify supervision of schools in the State of New York" it was passed by the Senate April 3 by a vote of 21 to 4.⁵⁸

In the meantime the matter of the election of a superintendent had become a current item of business. Mr. Pruyn, presumably hoping to see the office filled by a more amenable individual, saw one General Rathburn on April 2 at the suggestion of Mr. Bostwick, to find out if Dr. Anderson of Rochester would accept the nomination for superintendent. The general thought not, but would not attempt to answer for Anderson, and before a reply could be had the caucus was postponed a week because of the legislation pending in the two houses.⁵⁹

The senate bill to unify supervision reached the Assembly on April 6 and was reported favorably by Bostwick

⁵⁷Assembly Journal, 1874, Vol. I, pp. 714, 782, 828, 1087.

⁵⁸Senate Journal, 1874, p. 530.

⁵⁹Pruyn Journals, April 2, 1874.

for the education committee two days later. Sent to committee of the whole, it was made a special order for Thursday evening, April 9, and after consideration was again put on special order for April 14, in the evening. At that session, after unsuccessful attempts to amend the bill, it was returned to the committee on public education, from which it did not, apparently, emerge. At any rate, there is no further reference to it in the journals of that session.⁶⁰

While these proceedings were under way the legislature on April 7 elected Neil Gilmour as superintendent of public instruction.⁶¹

What the proposed change in the control of education may have been, lacking any other information as to the content of the bill, is indicated in the report of the Sheldon and McVicar visit to Pruyn, supported by an editorial in School Bulletin in September, 1874. The editorial reviewed the unsuccessful attempt of a few years since to unify the system by putting the superintendent of public instruction at the head of both the common and secondary school systems. The recent effort appeared to be based upon the theory that the superintendent could be removed from politics by making him the secretary of a state board of education. This could be accomplished in one of three ways: (1) by abolishing the

⁶⁰ Assembly Journal, 1874, Vol. I, p. 927; Vol. II, pp. 995, 1034, 1044, 1134-1135.

⁶¹ Pruyn Journals, April 7, 1874.

Board of Regents and uniting its functions with those of the department of public instruction, which had been tried and had failed; (2) by abolishing the office of superintendent and giving all control to the regents; or (3) by creating a new board of education to which all educational matters would be entrusted. The time seemed, according to the writer, to be propitious for attempting the third method, but objections appeared in the legislature to establishing an entirely new board, with the result that an effort was made to create a new board out of the existing Board of Regents. According to the School Bulletin writer, a board of nine members was proposed, to be classified in January, 1875, into three groups, to hold office for one, two and three years, new members to replace them to be appointed by the governor for six years. To this board would be entrusted all educational matters, and the secretary to be elected by the board should be superintendent of public instruction. When the time came to elect a new superintendent under the old law, with the new proposal still hanging fire, the election was carried out, and the proposed law died in the legislature. The School Bulletin hoped that the legislature would not let the matter rest until the system of education should be made a unit. Although the union free school law gave a possible opening for the absorption of the academic system by the common schools, there would still remain the fact that the law prescribed two different systems of

supervision.⁶²

Three bills intended to settle the difficulties between the department of public instruction and the Board of Regents went into the legislative hoppers in the Assembly during the term of 1875, and one was introduced into the Senate. The official journals are as usual scanty in their information as to the content of the bills. Mr. Sherman's proposal of February 15 was entitled "An act to unify the supervisory department of the educational system of the State." Mr. Vosburgh's bill of March 12 bore the title "An act to create a department of education and to reorganize the board known as the Regents of the University of the State of New York."⁶³ Both were reported adversely by the committee on public education on May 6.⁶⁴

A little more consideration was given to the third bill introduced on February 18 by Mr. Hepburn under the title "An act to unify the supervisory departments of the State." It received, with amendments, the approval of the committee on public education, and went to committee of the whole on April 2.⁶⁵ On April 7 the bill was reported as having been engrossed, but no mention appeared of its having

⁶²"Unifying our School System," School Bulletin, 1 (Sept., 1874), 1.

⁶³New York (State), Assembly Journal, 1875 (Albany: Weed, Parsons & Co.), pp. 283, 479.

⁶⁴Ibid., p. 1370.

⁶⁵Ibid., pp. 303, 648.

been considered in committee of the whole. Later on the same day it was re-committed to committee of the whole, and exactly a month later we find the house agreeing to Hepburn's motion that the bill be considered in the first committee of the whole which was not full.⁶⁶ The following day, May 8, it was reported favorably from committee of the whole and ordered to third reading.⁶⁷ From that point, there is no further mention of the bill. The senate bill, introduced on February 10 by an individual not named, failed to receive any action.⁶⁸

Lacking the text of any of these proposals, it is necessary to look elsewhere for information. In the pages of the School Bulletin, still in its first year, is a reference to a unification bill "prepared by the joint committee" for introduction into both houses, but there is no identification of the committee. The story continued with the statement that the principal defect in the bill lay in the fact that it was a proposal of one department to swallow up the other.

When any swallowing is to be done, the question at once arises whether the whale is to swallow Jonah or Jonah the whale, with a vigorous side issue as to which

⁶⁶Ibid., pp. 680, 699, 1375.

⁶⁷Ibid., p. 1409.

⁶⁸New York (State), Senate Journal, 1875 (Albany: Weed, Parsons & Co.), p. 143.

is the whale.⁶⁹

The bill, according to the report, proposed the subordination of the state department to the regents, and had little support to enable it to meet the objections of the state superintendent. Those who had fostered a similar proposal last year were now silent, considering the plan hopeless. The bill had been "so plucked to pieces by the committee that it lacks the vigor of the original draft," said to have been prepared by Superintendent Levi S. Packard of Saratoga Springs.⁷⁰

Considerably more information was offered by the story concerning the Hepburn bill and its author. Mr. Hepburn was described as

a young man, clear headed, a ready and graceful speaker; in a word just such a man as our educational interests demand in the legislature.⁷¹

He was elected to the legislature while still serving as school commissioner in St. Lawrence county. His bill, while not likely to pass, had several worthwhile points: (1) It provided for a board of education consisting of one member from each of the eight judicial districts, plus the lieutenant-governor, speaker of the Assembly, comptroller

⁶⁹(Untitled Editorial), School Bulletin, 1 (Mar., 1875), 56.

⁷⁰Ibid., p. 56.

⁷¹Ibid., p. 56

and chief justice of the Court of Appeals. The eight appointive members were to serve for six years. (2) This board was to appoint a state superintendent of education or public instruction. (3) The board was to be divided into three bureaus, each under a secretary nominated by the superintendent and confirmed by the board.⁷²

An editorial in the same issue, while denying that the writer would like to see the state department subordinated to the regents, attacked the public school system in disagreement with attacks on the regents in the Albany and Troy papers. The editorial declared that it was far from a demonstrated fact that the public school system of the state had covered the whole field of even preparatory education, and pointed out examples of retrogressive activity in several of the larger high schools. The editorial then continued with some heat:

When we read of the public school system of New York, that it is "acknowledged the best in the world," and that the Board of Regents is a sham, we feel inclined to ask which department keeps paying out \$55,000 annually for libraries, with the certain knowledge that most of it will be used for other purposes; and under which system an investigation is now in progress in one of the largest cities of the State to see whether the principal of the High School has not, in defiance of statute law, so changed the High School course as to exclude half the children who would be glad to attend; in another large city the Board of Education has spent months in disgraceful wrangling as to which members took bribes, which members lied, and which members stole the school house privies; while in a third large city

⁷²Ibid., p. 56.

the president of the Board of Education has paid to the Superintendent of Public Instruction \$15,000 for seducing his wife? These are not savory facts, but they are facts which the daily newspapers have within three months thrust into the faces of a hundred thousand school children.⁷³

After this blast the Bulletin apparently continued publication, for the June, 1875, issue contained a report concerning the Hepburn bill, which it declared had "very wisely not been called up" after it was approved by the committee of the whole. The story described Hepburn's speech in behalf of the bill as "about the only educational speech of the session." In it Hepburn urged that the state superintendency be freed from dependence upon politics and made responsible to a board of education.⁷⁴

The School Bulletin again stepped into the controversy when it published in its September, 1875, issue a statement signed by the editors:

The Bulletin, without committing itself before hand to any particular plan, will inquire into the expediency of uniting the two departments at present under the control of the Regents of the University and of the Superintendent of Public Instruction. The Editors will seek for such information and invite such discussion of the subject as may aid in determining whether this unification is demanded by the best interests of education in the State, and how, in that case, it may be best brought about.⁷⁵

⁷³Ibid., p. 56. By "Superintendent of Public Instruction" in the quotation above is evidently meant the city superintendent.

⁷⁴"Education in the Late Legislature," School Bulletin, 1 (June, 1875), 92.

⁷⁵"The School Bulletin," School Bulletin, 2 (Sept., 1875), 6.

The signers of the statement included Edward North of Hamilton College, as chairman; Jonathan Tenney, deputy state superintendent; Daniel J. Pratt, assistant secretary of the Board of Regents; Henry B. Buckham, principal of Buffalo normal school; Samuel Thurber, principal of Syracuse high school; Andrew McMillan, superintendent of schools at Utica; and Daniel C. Farr, principal of Fort Edward union school.⁷⁶

In December of the same year the regents fell under further criticism, this time from Professor J. H. Gilmore of the University of Rochester, and president of the Rochester board of education, in an address before the annual convention of commissioners and superintendents of schools.

Characterizing the regents as "a body of tolerably well educated and entirely well-to-do gentlemen" Professor Gilmore continued:

The University has a name . . . but no local habitation; that is, it has no buildings, delivers no lectures, hears no recitations. It does, however, conduct examinations and confer degrees. It also has funds at its disposal (largely in excess of the legal 40,000 bushels of wheat per annum) which fact induces us to treat the body in question with due respect and consideration.

The principal duty of the "Regents" now-a-days is to propound examination questions and pay, for an indefinite period, a certain sum per capita, for those who have satisfactorily answered their questions and are presumed to be pursuing a higher course of education.

The matter of "Regents examinations" is therefore one

⁷⁶Ibid., p. 6.

of prime importance. . . .⁷⁷

Professor Gilmore at this point became a little more charitable, and asserted that the regents had done so much to invigorate and unify education in the state "that no sane man would deliberately cast contempt upon them." But even the regents may have made mistakes, and unless they were more than human could not expect to escape criticism for those mistakes. Professor Gilmore did not believe that the apparent purpose in founding the University of the State of New York had been fulfilled, and having thus failed, the regents had turned to chartering and examining high schools and academies. He had three criticisms of regents' examinations: the subjects in which the regents did not examine were largely neglected; teachers cram for examinations with "minute and technical information instead of trying to impart broad and generous views"; and finally, the examination fever leads to ungenerous and unhealthy rivalry.⁷⁸

Professor Gilmore's charges were answered by C. W. Bardeen, publisher of the School Bulletin, who asserted that most of his objections applied to "all test examinations," and indeed to all tangible rewards for honest labor. The regents did not claim the system was perfect, but had done

⁷⁷ "The New York State Convention of Commissioners and Superintendents," School Bulletin, 2 (Feb., 1876), 86.

⁷⁸ Ibid., p. 86.

good work in furnishing a basis for apportionment of the \$40,000 available to the regents; it had furnished a test of uniformity in comparing schools; and had increased the thoroughness of teaching in the elementary branches.⁷⁹

At the July, 1876, University convocation an argument for the unification of the system of supervision was advanced from the ranks of secondary education. Principal W. W. Dawley of Amsterdam Academy, in a paper on "Supervision and State Aid" argued that the supervision of all schools should be in the hands of a single individual or department. The office of state superintendent should be abolished. The authority of the superintendent and of the regents should be centered in one body. In support of his proposal, he said:

The State University is properly the head of our system of education. Owing to the ability, age and experience of its members, the Board of Regents should constitute the supervising body proper. This board should have the final determination in choosing all school-directing officers.⁸⁰

At the University convocation of 1879 the following resolution was adopted:

Resolved, That this convocation is now, as it has always been, in favor of some plan of unification which shall not injure or compromise the interests of higher education, which are especially entrusted to the regents of the university of the state of New York, and will

⁷⁹Ibid., p. 86.

⁸⁰New York (State) University, "Proceedings of the University Convocation, 1876 (Albany: The Argus Co.), p. 124.

heartily co-operate with the educational bodies in the state in attempts to realize such a plan.

Resolved, That a committee of seven members of this convocation be appointed by the chancellor, who shall be empowered to confer with other bodies, and assist in carrying out such a plan of unification as shall meet the approval of the board of regents.⁸¹

The committee appointed under the resolution consisted of Professor Mears of Hamilton College, Dr. Wilson of Cornell, Dr. Steele of Elmira, and Principals Bradley of Albany, Sheldon of Oswego, Clarke of Canandaigua, and Bacon of Syracuse.⁸²

The Rochester Democrat and Chronicle gave editorial approval to the resolution and the appointment of the committee. The editorial called attention to two evils in the common school system: "its intimate association with politics," and the autocratic powers of the superintendent.

Every three years, there is witnessed, at Albany, a disgraceful scramble for the office of superintendent. It is a fat office, with a salary of \$5,000, and allowance for traveling fees, and the appointment of a deputy with \$3,500 annual pay and a number of clerks. It goes, as doubtless it is right it should, to a member of the party which happens to be dominant in the legislature, and always involves a heated, and sometimes an acrimonious strife. The usual appliances of politics are involved. Members are button-holed by rival candidates, the influence of their various "sisters and cousins and aunts" is brought into requisition, and it is hinted

⁸¹New York (State) University, "Proceedings of the University Convocation, 1879," Senate Document No. 41, 1880 (Albany: Charles Van Benthuysen), pp. 481-482.

⁸²Ibid., p. 486.

that even corrupt agencies have been employed in canvasses particularly earnest. The office has thus been dragged through the mire of politics, and it is not strange that sometimes the best politician, rather than the man most competent from the education view, has succeeded in grasping the prize.⁸³

The Rochester editor also insisted that the powers of the superintendent should be modified, or at least his decisions should be subjected to review. If disputes from districts were taken to him for decision rather than to the courts, there was no appeal from his verdict. This, the editorial declared, was a power that should not be vested in any man, however worthy. The editorial asserted further that there was no need for separation in the supervision of higher and elementary schools, and that there was a tendency to bring the regents closer to the common schools. There was a growing conviction that the Board of Regents should be entrusted with work "commensurate with its traditional importance," and that it should be "made less ornamental and more useful." It was not contended that the Board of Regents as then constituted was just the body to have larger powers of supervision, but some such body should be endowed with these additional powers.⁸⁴

The smoldering conflict between the two departments of government again burst into the open during a session of

⁸³Rochester (New York) Democrat and Chronicle, July 15, 1879.

⁸⁴Ibid., July 15, 1879.

the state teachers' association held at Penn Yan in July, 1879. A committee on supervision and the licensing of teachers brought in a majority report signed by all but one member of the committee. The report recognized the need of working out a plan of supervision and licensing, but believed that the details of any such plan could not be effectively developed so long as the responsibility for supervision continued to be divided between the regents and the department of public instruction. Therefore the committee considered it essential that some form of unification be adopted to enable a suitable plan of supervision to be developed. They recommended that unification be accomplished by giving to the Board of Regents the powers then possessed by both departments. The regents should then be authorized to appoint a superintendent of public instruction who would be in charge of public schools under the direction of the board.⁸⁵

The one dissenting member of the committee, a Mr. DeGraff, presented a minority report. Terming the proposal for unification "revolutionary" and therefore "dangerous," he asserted his opposition to the establishment of a board rather than a single executive officer. The work of the two departments was entirely distinct, and it was unwise to ignore the needs of the present institutions by placing

⁸⁵"The State Teachers' Association," School Bulletin, 5 (Aug., 1879), p. 180.

control in the hands of one office. After a lengthy debate the report was returned to the committee with instructions to report the following year.⁸⁶

The controversy at the Penn Yan meeting led to a long communication signed "C" in the September, 1879, issue of the School Bulletin, in which the names of the majority signers of the committee report were given as School Commissioner J. B. Riley, Plattsburg; Dr. Malcolm McVicar, Potsdam Normal; Superintendent B. B. Snow, Auburn; Dr. J. H. Hoose, Cortland Normal; and Superintendents D. Beattie, Troy; H. R. Sanford, Middletown; H. Kiddle, New York and L. S. Packard, Saratoga Springs. The letter declared that the majority report had also the endorsement of the convocation committee on unification.⁸⁷

"C" identified Mr. DeGraff as a member of the teachers' institute staff, which was subject to the jurisdiction of the state superintendent, and stated that DeGraff had been working with the committee until the institute instructors had been summoned to Albany. From that point on DeGraff had been in opposition to the program outlined by the committee.⁸⁸

"C" quoted DeGraff's report as claiming that the normal schools should unite against unification, for the

⁸⁶Ibid., p. 180.

⁸⁷"Unification of Our School System," School Bulletin, 6 (Sept., 1879), p. 4.

⁸⁸Ibid., p. 4.

department had defended them in the past. "C" pointed out that the superintendent's report had added fuel to newspaper criticism of the normals by quoting comparative figures of the cost of educating a graduate at the various institutions: Buffalo, \$1492.88; Brockport, \$1471; Oswego, \$337.29; and Albany, \$316.77. He pointed further to a statement in the superintendent's report of 1876 to the effect that the normal schools need not monopolize teacher training; city high schools and the academic departments of union free schools could graduate competent and successful teachers. The result of this lukewarm attitude, "C" asserted, had been an attack on the normal schools in the legislature in January, 1877, in which a brief hearing had resulted in the vindication of the program of the normal schools.⁸⁹

The letter closed with an ardent appeal for the legislature, if it was to elect another superintendent the following April, to redeem itself and

honor the state by appointing a man and a scholar whom all educators can honor and gladly follow for his unimpeachable integrity; for his ability to assume and retain leadership in all educational discussions and plans, for his single-mindedness in serving the cause, rather than himself; for his noble Christian character and moral courage to stand unswervingly by the right; for his extensive and practical acquaintance with legislative, state and educational affairs; for his fearlessness in advocating lines of progress which his judgment should approve; and for his cooperative sympathy with the noble body of educators who sustain the educational reputation of our great State. Such

⁸⁹ Ibid., pp. 4-5.

a man can be found in the State, and he should be appointed, the educators demand him as their leader.⁹⁰

Although there was obviously a considerable amount of discussion and agitation in educational circles concerning the matters covered in this communication, little direct evidence has been found in the materials available for this study. It is necessary to draw conclusions based partly on the actual language of the material, and partly on the language of the critics.

The charge of lukewarmness toward the normal schools made by "C" in his letter is hardly borne out if one accepts at its face value the language used by Superintendent Gilmour in his annual report of 1878. He referred to the investigation in the legislature the previous year, and asserted in very definite language his faith in the value of the normal schools and the quality of their instruction. He quoted at length from previous reports which he and his predecessors had made in support of his defense of the institutions.⁹¹

On the other hand Mr. Gilmour embroiled himself to an extent with the authorities at Brockport and Potsdam by an order directing the suspension of any academic instruction being given in the normal schools, and limiting practice schools to a registration of 250 elementary pupils. Both

⁹⁰Ibid., p. 5.

⁹¹New York (State), "Report of Superintendent of Public Instruction," Assembly Document No. 7, 1878 (Albany: Jerome B. Parmenter), pp. 38-44.

institutions replied, quoting the terms under which the normals were established, which included the maintenance for the village of the facilities which the parent institution had been providing. Gilmour thereupon withdrew a step, suspending his order pending legislative determination of the situation.⁹² Whether he was influenced in his original order by the fact that some of the criticism of dual control and some of the agitation for unification had been supported by individuals connected with the normals is an interesting matter for speculation. Attention is called to the fact that Dr. McVicar, one of the signers of the majority report on unification at Penn Yan, was principal of the normal school at Potsdam; and Dr. Sheldon of the convocation committee on unification, was principal at Oswego.

It is quite evident that Superintendent Gilmour was influenced by the unification issue in his feud with the local authorities at Cortland normal in 1880. One of the signers of the majority report at Penn Yan had been Dr. James H. Hoose, principal of the institution at Cortland. The same year Dr. Hoose had also urged unification in a long address to the state association of school commissioners, meeting at Ithaca.⁹³

In the spring of 1880, as the time approached for the

⁹²Ibid., pp. 51-69.

⁹³"Unification of Our School System," School Bulletin, 6 (Sept., 1879), p. 4.

election of a superintendent, the School Bulletin speculated on the possibility of a change, and reported the general assumption that Mr. Gilmour would be re-elected. Mr. Bardeen based his belief on the grounds that the superintendent had the party majority behind him, and had served the party faithfully while carrying out a conservative policy. Among the arguments advanced by the opposition was the time-honored statement that "it was time for a change," and the more damaging charge that Gilmour had been the author of a textbook bill which would require the use of a set of textbooks chosen by a committee of which he would be a member. That belief was generally held despite the superintendent's denials. Also serious was the widespread opposition to Gilmour's deputy, A. A. Keyes, who the previous year had engaged in an altercation in the public press with Regent Fitch, an editorial advocate of unification.⁹⁴ After the re-election of Gilmour, Bardeen stated in the columns of his periodical that the superintendent had freely let it be known that he would take revenge on those who had opposed his re-election.⁹⁵

Whether or not these factors entered this particular situation, Gilmour on June 28, 1880, demanded by letter the resignation of Principal Hoose of Cortland, and notified

⁹⁴"The State Superintendency," School Bulletin, 6 (Mar., 1880), p. 79.

⁹⁵"The Czar of All the Russias in American Education," School Bulletin, 6 (July, 1880), p. 131.

the secretary of the local board of his action.⁹⁶ In response to a resolution of the local board Gilmour replied that his action resulted from "personal observation for several years," and a conviction that the cause of education in the state would thereby be served. He also advised the board that they were not asked to share the responsibility for the removal of Hoose, and said quite bluntly, that in his official acts he was not amenable to the board.⁹⁷

Dr. Hoose replied on July 8, declining to resign, and on the 12th Gilmour notified him that he had written to the local board withdrawing his approval of Hoose's employment. The superintendent supported his action with an opinion from Attorney-General Hamilton Ward, that he had the right to withdraw approval of the appointment of a teacher.⁹⁸

On July 13 Gilmour wrote the local board at Cortland, giving his reasons for demanding the resignation of Hoose. He charged Principal Hoose with being incompetent, inefficient and inattentive to his duties. Particularly significant in view of the general attitude of schoolmen toward the controversy is this statement from the letter:

It has long been evident to me that cordial relations, such as should exist, could not be maintained between

⁹⁶New York (State), "Report of Superintendent of Public Instruction," Assembly Document No. 11, 1880 (Albany: Weed, Parsons & Co.), p. 31.

⁹⁷Ibid., p. 31.

⁹⁸Ibid., pp. 31-32.

the Cortland Normal School and this Department, as long as Dr. Hoose was principal of the one and I was at the head of the other.

I pass by without notice, and indeed as unworthy of notice, affronts and insults which I have received from the late principal of the normal school in your village, but as head of this Department . . . I do remember that for years past Dr. Hoose has been, in season and out of season, the avowed and pronounced enemy of this Department, and that he has labored with all his strength for its abolition.⁹⁹

The local board a few days later passed a resolution refusing to concur with Mr. Gilmour's action, and on August 4 Gilmour directed Professor James M. Cassety of Fredonia Normal to go to Cortland as acting principal. This action he also supported with an opinion from the attorney-general.¹⁰⁰ At the same time Gilmour notified the members of the faculty individually to report to Professor Cassety and obey his instructions. The local board refused to accept Cassety as principal, whereupon he was directed to go to the village of Cortland and establish an office if refused access to the normal premises. Gilmour also advised Professor Cassety that approval of appointment would be withdrawn from any faculty member who refused to follow his instructions.¹⁰¹

On the day set for opening the fall term, Cassety was on hand at the normal school, as were Dr. Hoose, the members of the local board, townspeople and students. The president

⁹⁹Ibid., pp. 34-35.

¹⁰⁰Ibid., pp. 37-39.

¹⁰¹Ibid., pp. 40-41.

of the local board announced that school would open under the direction of Dr. Hoose. When Cassety demanded a hearing, he was refused the use of the chapel, but allowed to make an announcement to the assemblage in the corridors. His demand that he be given custody of the official records and be allowed to take control was met with a flat refusal from the local board. Thereupon Cassety directed the teachers to leave the building, and withdrew himself, accompanied by six faculty members. Six others remained with the local forces.¹⁰²

Superintendent Gilmour then withdrew approval of the appointments of the six rebelling faculty members, and notified the principals of the other normal schools to accept as transfers any students from Cortland who wished to continue their courses. On the 7th of September Gilmour issued an order formally closing the normal school at Cortland

until such time as the lawful orders and directions of the Department of Public Instruction . . . are obeyed by the local board of said school, and until said school shall be organized and opened in conformity to school shall be organized and opened in conformity to the laws of the State relating to normal schools.¹⁰³

After an agreement to submit the case to the general term of Supreme Court had been found illegal, the attorney-general, for Mr. Gilmour, began proceedings for a writ of mandamus to compel the local board to terminate the appointment of Hoose, and to recognize Cassety as the head of the

¹⁰²Ibid., pp. 41-42.

¹⁰³Ibid., pp. 44-45.

school.¹⁰⁴ The opinion of Justice Martin did not examine the question whether a mandamus was the proper remedy, but declared that on the merits of the case, the application for mandamus must be granted.¹⁰⁵

In his report for 1880, in which he outlined the dispute with the Cortland authorities, Gilmour expressed his point of view in these words:

It seems to me plain that if the officer, charged by law with the general supervision, management and control of the State normal schools, is to be made the mere coadjutor of local boards of trustees, with no power to act except upon their recommendation; and if he is to be compelled to retain in position principals, and other teachers, whom he believes to be incompetent, or who openly and willfully defy his instruction, simply because the local prejudices of a majority of a local board demand it, the schools should hereafter be denominated "local" and not "State" normal schools. . . .¹⁰⁶

This point of view would deserve more consideration were it not for the very strong indication in the quotation on pages 224 and 225 above that Hoose's "incompetence" and "inefficiency" were closely connected with his opposition to Gilmour as superintendent.

At the beginning of the second term of the school year the normal school at Cortland was "reopened" under Professor Cassety, with replacements for the Hoose seceders

¹⁰⁴Ibid., p. 48.

¹⁰⁵Ibid., pp. 49-55.

¹⁰⁶Ibid., p. 56.

on the faculty. Some fifteen or twenty older students objected to a ruling of the new principal requiring a review of the previous term's work, and applied for admission at Oswego. The seceders declared that they left because Principal Cassety threatened to expel them for not registering on the first day of the term, and because the teachers had taunted them for their failure to gain admission at Oswego. When they were denied authority to enter there, they went in a body to the normal school at Ypsilanti, Michigan, of which Dr. McVicar had become the head. On February 24, 1881, the local board filed an appeal from the Martin decision. Feelings continued to run high, and Gilmour was hung in effigy by townspeople when he visited Cortland.¹⁰⁷

During the spring of 1881 Dr. Hoose was appointed city superintendent at Binghamton at a substantial increase in salary, and with the understanding that he could return to Cortland if the courts ruled in his favor.¹⁰⁸

The appeal from the Supreme Court decision was argued before the Court of Appeals on January 31, 1882, and a decision was finally rendered on April 18. The court ruled that an attempt to exercise the sole power by either the superintendent or the board was not in the provisions or intent of the normal school laws of 1866 or 1869, and that

¹⁰⁷"Notes on the Cortland Matter," School Bulletin, 7 (Mar., 1881), p. 85.

¹⁰⁸(Item) School Bulletin, 7 (June, 1881), p. 134.

claiming the right of summary dismissal deprived the teacher of the tenure of employment provided by the law. In refusing to recognize Cassety as principal, the local board had not omitted any of its duties. The court therefore reversed the findings of the general term of Supreme Court and denied the writ of mandamus.¹⁰⁹

Accordingly, on April 26, 1882, Hoose resumed the principalship at Cortland, with the six faculty members whose positions had been vacated by action of Superintendent Gilmour. The report of Cortland normal to the superintendent of public instruction for the year 1883 carries a somewhat stiff footnote from the superintendent pointing out that Professor Cassety and Dr. Hoose had been in charge during part of each of the two preceding years, and that the attendance figures given in the report were inaccurate.¹¹⁰

The sequelae to the "Battle of Cortland" can be reconstructed only in part from the available documents. When the scism at the school occurred, the faculty divided equally. Frank S. Capen, James M. Milne, Martha Roe, Mary F. Hendrick, Clara E. Booth, and Mrs. Lottie T. Corlew obeyed the instructions of Cassety when he temporarily abandoned the field after failing to be heard by the local board at the opening

¹⁰⁹"The Cortland Controversy Decided," School Bulletin, 8 (Mar., 1882), pp. 121-123.

¹¹⁰New York (State), "Report of the Superintendent of Public Instruction," Assembly Document No. 25, 1883 (Albany: Weed, Parsons & Co.), p. 151.

of the term. The rest of the faculty, Dr. Thomas B. Stowell, S. J. Sornberger, Mrs. Emily P. Halbert, Elizabeth Rase, Emily E. Cole, and Sara A. Saunders, remained loyal to Dr. Hoose. With him they went into exile when the initial court decision rendered them jobless after they had carried on the work of the school in the face of Gilmour's order closing it in September, 1880.¹¹¹

When the courts eventually ruled in favor of Hoose, he re-assumed his duties at the school, and with him returned the six teachers whose appointments Gilmour had officially disapproved for sticking with Hoose.¹¹² Apparently there was no retaliation against the six who stayed under Professor Cassety, for in the succeeding reports they continued to be among the faculty of the school.

Several members of the two groups resigned not long after the "battle." These included Mrs. Corlew, who left her post a few weeks after Hoose resumed work;¹¹³ Elizabeth Rase, who resigned in 1884,¹¹⁴ and Mrs. Halbert in 1889.¹¹⁵

¹¹¹New York (State), "Report of the Superintendent of Public Instruction," Assembly Document No. 11, 1881 (Albany: Weed, Parsons & Co.), p. 42.

¹¹²Assembly Document No. 25, 1883, p. 151.

¹¹³Ibid., p. 153.

¹¹⁴New York (State), "Report of the Superintendent of Public Instruction," Assembly Document No. 8, 1885 (Albany: Weed, Parsons & Co.), p. 184.

¹¹⁵New York (State), "Report of the Superintendent of Public Instruction," Assembly Document No. 7, 1890 (Albany: James B. Lyon), p. 244.

Martha Roe was not listed in the faculty for 1895-1896, but had been on the list the previous year. There was no mention of a resignation.¹¹⁶ These four women are mentioned together because they do not appear to have found employment at any of the other state normals. There is no way of knowing whether they went into other types of teaching, or whether they retired.

Dr. Capen resigned at the same time as Miss Rase, and does not appear on the faculty lists of any of the state normal schools until 1888, when he was appointed principal of the newly opened normal at New Paltz.¹¹⁷ He left this position in 1900.¹¹⁸ Likewise there is no mention of Cassety in any of the records consulted until he appeared in the 1887 report of Buffalo normal as the newly appointed principal and professor of "didactics." He was then listed as being from Albany.¹¹⁹ He was still holding the position in 1904-1905, when this study ends.¹²⁰

¹¹⁶New York (State), "Report of the Superintendent of Public Instruction," Assembly Document No. 67, 1896 (Albany: Wynkoop Hallenbeck Crawford Co.), p. 310.

¹¹⁷New York (State), "Report of the Superintendent of Public Instruction," Assembly Document No. 7, 1889 (Troy: Troy Press Co.), p. 249.

¹¹⁸New York (State), "Report of the Superintendent of Public Instruction," Assembly Document No. 84, 1900 (Albany: J. B. Lyon), p. 225.

¹¹⁹New York (State), "Report of the Superintendent of Public Instruction," Assembly Document No. 7, 1887 (Albany: The Argus Co.), p. 104.

¹²⁰New York (State), "First Annual Report of the State Education Department," Assembly Document No. 45, 1905 (Albany: State Education Department), p. 201.

Milne and Stowell both resigned at Cortland in 1889, the former to become principal of the normal school at Oneonta, and the latter to become principal at Potsdam normal.¹²¹ Milne remained at Oneonta until 1898, when he retired¹²² while Stowell was still listed as principal at Potsdam in 1904.¹²³

Of the remaining women teachers, Miss Saunders left Cortland in 1895 to become teacher of methods at Brockport, at a \$200 increase over her original munificent salary of \$700.¹²⁴ In the 1905 report she was listed as supervisor of the training department.¹²⁵ Miss Hendrick resigned from her position of thirty-five years duration at Cortland in 1904. The official report stated that her resignation occasioned "keen regret" and that "both the school and the state lost a most efficient and faithful public servant." Miss Booth was still listed as a member of the faculty.¹²⁶

A little more remains to be said of Dr. Hoose. According to the official report for 1891 his salary was raised

¹²¹Assembly Document No. 7, 1890, pp. 198, 234, 244.

¹²²New York (State), "Report of the Superintendent of Public Instruction," Assembly Document No. 56, 1899 (Albany: Wynkoop Hallenbeck Crawford Co.), p. 170.

¹²³Assembly Document No. 45, 1905, p. 243.

¹²⁴Assembly Document No. 67, 1896, p. 298.

¹²⁵Assembly Document No. 45, 1905, p. 196.

¹²⁶Ibid., pp. 206-207.

from the \$2500 which he had received for a number of years to \$2800 "by the state superintendent."¹²⁷ This report had not long been off the presses when the School Bulletin reported that Dr. Hoose had been asked to resign, this time by the local board, on June 8, 1891.¹²⁸

In reporting the episode, Bardeen asserted that his support of Hoose on the previous occasion had cost his publication \$10,000 in subscriptions, for Gilmour had instructed institute conductors and school commissioners to use their influence against the magazine. After the election of Draper as superintendent for his first term, Hoose came to the Bulletin office and castigated Bardeen for supporting W. J. Milne against Draper, and thereafter avoided Bardeen so far as possible.¹²⁹

In May, 1891, Hoose was warned by the local board that his policies were not in harmony with theirs. Draper advised Hoose in a long letter on July 28 that his time was short, and that he had best resign. Hoose replied a few days later, refusing to do so. Draper then advised Hoose that he was upholding the action taken by the local board on June 8, removing Hoose and appointing in his place

¹²⁷New York (State), "Report of the Superintendent of Public Instruction," Assembly Document No. 7, 1891 (Albany: James B. Lyon), p. 164.

¹²⁸"Matters at Cortland," School Bulletin, 17 (August, 1891), p. 147.

¹²⁹Ibid., pp. 145-146.

Dr. Francis J. Cheney.¹³⁰

There is no further evidence in the materials consulted as to the subsequent activities of Hoose. The names of the students who seceded and went to Ypsilanti are not available in these records, and there is no way of knowing whether any of them ever came back although detailed lists of graduates were published every year.

One interesting fact appeared from the research upon which this second report was based. Not one of the individuals who later became a principal of another school found a place on his faculty for any of the individuals who had supported the same cause as he during the Cortland scism. Whether there was any particular reason for this situation is not evident from the materials at hand.

Criticism of the Board of Regents came from a different direction shortly after this episode. In his annual message of January 5, 1886, Governor David B. Hill reviewed the past history and the activities of the regents and came to the conclusion that there was no reason for their continued existence. Their visits and inspection were "of rare occurrence," the information contained in the regents' annual reports being obtained from reports to the board. The honorary degrees granted were "held in a certain esteem" but since

¹³⁰Ibid., pp. 146-147.

the regents were

generally regarded as a purely ornamental body, and membership a sort of pleasant retreat for respectable gentlemen of literary tendencies.¹³¹

the degrees lacked the value attached to those granted by established institutions of learning.

The few colleges or academies being established by charter from the Board of Regents, Governor Hill continued, could as well be established under general laws. The librarian of the state library was amply qualified to perform all the duties of the office, as was the director of the state museum. Further, the work of organizing the regents' examinations and the teachers' training classes was being adequately performed by the secretary of the Board of Regents and his staff.¹³²

I think there is no necessity for the official existence of the Board of Regents. Its corporate name is deceptive and misleading. Its powers and duties can be intrusted to other and appropriate hands without detriment to the public interests, thereby saving to the State the annual expense of its maintenance and dispensing with the anomaly of a two-headed educational system and the confusion of a divided and sometimes conflicting superintendence in the same public schools.¹³³

Declaring that the superintendent of public instruction had

¹³¹New York (State), Messages from the Governors, Vol. VIII (1885-1891), p. 169.

¹³²Ibid., p. 169.

¹³³Ibid., p. 170.

been given ample power and "undivided responsibility," with all the office machinery necessary for supervision and administration of the school system, Governor Hill came to the point of his attack on the regents:

I recommend that the Board of Regents be abolished; that its powers and duties relating to the schools be transferred to the Department of Public Instruction, and that its other powers and duties necessary to be provided for be transferred to other appropriate departments and offices already established and maintained by the State.¹³⁴

Mr. Bardeen's School Bulletin reported that the governor's attack had the effect of starting in motion a movement to subordinate the regents to the department of public instruction, under the leadership of Professor Comfort of Syracuse University, and supported by a segment of the state press. The Bulletin editorialized however, that

No such action is likely to be taken but the fact that imputation /sic/ upon the Regents is so sure to provoke this extreme action on the side shows how firmly intrenched the Regents are and how unlikely they are to be obliterated by the unappreciative sneer of a demagogue.¹³⁵

In the same issue there was reported a comment which indicates to some extent the confidence felt by members of the board in their supporters throughout the state. "When do you think Governor Hill's attempt to abolish the Board of

¹³⁴Ibid., p. 171.

¹³⁵"Doom of the Board of Regents," School Bulletin, 12 (Feb., 1886), p. 63.

Regents will succeed?" Regent St. Clair McKelway of Brooklyn was asked. "When the Board of Regents gets over the habit it has had for a century of surviving Governors," was his reply.¹³⁶

The governor's message, plus the ever-present resentment over the continued existence of the Board of Regents, brought forth the usual rash of legislation intended to change the status of the board or to abolish it altogether. On March 9, 1886, Assemblyman Greene of Orange county introduced a bill for the abolition of the regents. The bill was adversely reported by the committee on public education, about a month later, but the lower house refused to accept the report and returned the bill to the committee. On May 5 the committee again reported the bill for consideration of the house, and it was sent to committee of the whole, in which there is no record of any action on the proposal.¹³⁷

In his message of 1887 Governor Hill renewed his attack with a repetition of his recommendation that the regents be abolished and their powers transferred.¹³⁸ In the Assembly on February 8, Mr. Greene again introduced a bill to abolish the Board of Regents. On being reported by

¹³⁶Ibid., p. 63.

¹³⁷New York (State), Assembly Journal, 1886 (Albany: Weed, Parsons & Co.), Vol. I, pp. 453, 500, 859; Vol. II, p. 1386.

¹³⁸Messages from the Governors, Vol. VIII (1885-1891), p. 301.

the committee on public education on March 2, the bill was returned to the committee, and when it was again reported out on March 17, the house refused by a vote of 42 to 59 to consider it in committee of the whole.¹³⁹ In the Senate in the same session Mr. Wemple introduced a similar bill, which was not reported out of the committee on literature.¹⁴⁰

During the same session the School Bulletin reported that a bill proposing unification, drawn by President Sheldon of the state association of school commissioners had been introduced in the Senate and Assembly.¹⁴¹ Reference to the house journals indicates that the bill was introduced in the Senate by Mr. Sloan on January 31, 1887. After being reported by the committee on literature on February 9 for the consideration of the house, it was sent back to the committee, from which it apparently did not emerge.¹⁴² There is no reference in the Assembly Journal to any bill other than that introduced by Mr. Greene. This was not the association bill, since the Bulletin had stated that Mr. Erwin was to introduce the Sheldon bill.¹⁴³

¹³⁹New York (State), Assembly Journal, 1887 (Albany: The Argus Co.), Vol. I, pp. 224, 450, 666.

¹⁴⁰New York (State), Senate Journal, 1887 (Albany: The Argus Co.), p. 306.

¹⁴¹(Item), School Bulletin, 13 (Feb., 1887), p. 63.

¹⁴²Senate Journal, 1887, pp. 81, 135.

¹⁴³School Bulletin, 13 (Feb., 1887), p. 63.

Governor Hill was persistent in his opposition to the regents, and in his annual message of 1888 recommended for the third time the abolition of the board and the transfer of its powers to the department of public instruction. The stated purpose of this move was the

unification of the supervision of the educational interests of the State, and the abolition of unnecessary and ornamental offices.¹⁴⁴

Again in 1889 Governor Hill reiterated his demand for the abolition of the Board of Regents and the reassignment of its powers.¹⁴⁵ This time the journals of the legislature are bare of any proposals in this direction. Instead the legislature passed a bill which received the executive approval, revising and consolidating the statutes relative to the University of the State of New York.¹⁴⁶ The only other act referring to the controversy in any way transferred the jurisdiction of teachers' training classes in high schools and academies to the department of public instruction.¹⁴⁷ This, however, might well be considered a reasonable move, for the supervision of teacher training in the normal schools was under the jurisdiction of the department, with the

¹⁴⁴Messages from the Governors, Vol. VIII (1885-1891), p. 479.

¹⁴⁵Ibid., p. 680.

¹⁴⁶New York (State), Session Laws, 1889 (Albany: Banks & Bros.), pp. 722-728.

¹⁴⁷Ibid., p. 165.


exception of Albany, in which case the regents were represented on the board.

In 1886 Andrew S. Draper was elected superintendent of public instruction. His career previous to election had been largely in law and public service. After his graduation from Albany Law School in 1871, he practiced law in the city until he was appointed in 1884 by President Arthur as one of the judges of the United States Court of Alabama Claims. He was elected to the legislature in 1880 and served on the committee on public education. After his appointment to the executive board of Albany normal in 1882, he was active in securing new buildings for the institution. In spite of the interest thus indicated in educational affairs, his election to the superintendency was widely opposed by educators on the grounds that he was a politician and lacked experience for the position.¹⁴⁸

In spite of this opposition Draper became one of the most popular and successful of the incumbents of the office. He was much sought after as a speaker at educational meetings, and addressed such gatherings in at least eleven states. During his term as superintendent he was also president of the national association of superintendents.¹⁴⁹

¹⁴⁸New York (State), "Report of the Superintendent of Public Instruction," Assembly Document No. 7, 1893 (Albany: James B. Lyon) (Appendix, Exhibit No. 1: New York State Teachers Association), pp. 43-44.

¹⁴⁹Ibid., p. 43.



Reference is here made to the election of Draper and the attitude of the educators of the state because during his term of office internal friction between the two departments was almost non-existent. In his report for 1889, for example, Draper made this statement:

I deem it proper to say that reflection and experience convince me that the arrangement which has so long existed in this State by which the common school interests are administered and supervised by this Department and the academic interests by the Board of Regents of the University is a wise and useful one. Between these two classes of school work there is a natural and well-defined line of separation. It is undoubtedly better for each to continue under the supervision of an authority especially sympathetic with its circumstances and calculated to promote its interests. It is only important that the functions and prerogatives of each of the State educational authorities shall be clearly understood, that the line of demarcation between them shall be well defined, to the end that there may be no division of responsibility and no possibility of clashing.

. . . 150

On this note of harmony we shall close the story of a period in which the Board of Regents and its program was almost continuously on the defensive from attacks from the department of public instruction, from the legislature, from the executive mansion, and from a segment of the educational fraternity. We have seen that in spite of these onslaughts the powers of the Board of Regents remained practically undiminished, and its prestige undamaged.

In the next chapter we shall note that the harmony between the two departments has come to a rather abrupt end.

¹⁵⁰ Assembly Document No. 7, 1889, p. 45.

We shall also survey the attempts to change the status of one or the other of the two departments in the constitutional revision convention of 1894, and the triumph of the Board of Regents. We shall further survey the attacks made by Superintendent Crooker upon the policy of spending state funds for support of higher education. As the turn of the century neared, unification became a subject for widespread discussion which will be a further item in the following chapter.

CHAPTER VIII

THE CROOKER REPORTS; THE CONVENTION OF 1894

In this chapter we propose to review two aspects of the controversy between the departments of education. On the one hand, we shall survey the activities of the education committee of the constitutional revision convention of 1894, and the action which resulted in giving constitutional status to the University of the State of New York and the Board of Regents. On the other hand, we shall report on the attacks made by Superintendent James F. Crooker on the friends of higher education. These pronouncements indicate the narrowness of viewpoint which was exhibited by some individuals who took part in these controversies.

The pleasant relations existing between the Board of Regents and the department of public instruction under Superintendent Draper were dissipated by the first report of Superintendent Crooker in 1893. The report cited the facts that teachers' salaries had increased, in weekly rate, only eighty-nine cents for cities and eleven cents for rural areas, and continued:

It is my opinion that a vast amount of the public moneys /sic/ is diverted from the original purpose in furnishing higher education to a small number of a favored class, who, in most cases, are well able to

obtain it without the aid of the State. Would not more benefit accrue to the masses, to the indigent, . . . if it could go toward increasing the salaries of common school teachers and thereby secure the services of a better, more efficient corps for primary and common schools? . . .¹

Mr. Crooker believed that the state should be liberal in its support of normal schools and teachers' training classes, which were doing much to improve the quality of teaching in the common schools, but there was doubt in many minds whether the state should go further in the direction of higher education. The obligation of the public toward the support of a free public education should be more closely defined, and the essential subjects to be studied should be more carefully selected.

We want fewer studies and those which are more useful to the masses, and these should be taught more thoroughly. . . . We need less trigonometry and more business arithmetic; less botany and French and more and better penmanship; less popular fads and more common sense. . . . If the State deems it wise that greater expenditure for school purposes should be made, instead of appropriating increased sums for academic education, examinations in law and medicine, university extension, and all such schemes which are of doubtful propriety for the State to meddle with, it were a thousand fold better to appropriate money for the establishment of kindergarten schools in the large cities.²

A reply to Superintendent Crooker's charges was

¹New York (State), "Report of Superintendent of Public Instruction," Assembly Document No. 7, 1893 (Albany: James B. Lyon), pp. 14-15.

²Ibid., pp. 19, 24.

provided in an address to the summer convocation of the university, held early in July. James T. Edwards, who had been at various times a member of the state Senate, and principal of a school in Maryland, referred in a prepared address to the "amazement and emphatic opposition" with which schoolmen had received Crooker's remarks. Asking "what were the questionable expenditures" referred to, Edwards asked whether they were not made according to law, and whether "questionable" referred to the method of administration or to the propriety of appropriating money for the purposes mentioned. In these charges the superintendent had "thrown down the gage of battle at the feet of this convention, composed of the friends of higher education." Edwards asked if the high schools were not free schools, which all might attend if they chose to do so. Not all young people attend high schools, but enough of them did so to make it possible to say that the high schools and academies were the people's colleges.³

Regent Charles E. Fitch at the same session came specifically to the defence of the regents in a formal address. He asserted the university had united in a single organization institutions which still maintained their autonomy, and were amenable to the university only for

³New York (State) University, Proceedings of the Convocation of 1893, Regents Bulletin No. 22 (Albany: University of the State of New York), pp. 307-308.

violations of their charters. The Board of Regents

has had supervision, rather than authority, has been an adviser rather than a ruler. And yet, this gentle supervision has woven cords of sympathy between the various institutions, has given them unity of purpose . . . and has made them collectively worthy of State pride. . . .⁴

Listing the enterprises which the Board of Regents had inaugurated, Regent Fitch declared that in their activities would be found the most distinguished outcomes of recent educational activity in the state. These accomplishments included the state library and museum, uniform examinations, traveling libraries, the state library school, regents' bulletins, inspections and extension services.⁵

Aristocratic only in name, it /the University/ is one of the most democratic of educational bodies. The allegation that it was ever segregated from the masses, remote and inaccessible, effete and inefficient, was a gross misconception, or a wilful perversion on the part of those who published it. It has administered the trusts confided to it with scrupulous fidelity, and the funds it has distributed have had democratic application.⁶

Superintendent Crooker resumed his attack on the application of state funds to secondary education in his annual report for 1894, charging that the "unfortunate dual system now in vogue" deprived the weaker and poorer districts of thousands of dollars annually, to the advantage of cities

⁴Ibid., p. 324.

⁵Ibid., pp. 325-326.

⁶Ibid., p. 325.

and richer areas. The school fund, raised by equal tax on property in the state, should not be encroached on for the benefit of special privilege. The application of the sum set aside for "the questionable plan of paying premiums to a number of the larger and wealthier districts for special purposes" to the needs of the poorer districts would result in material improvement.⁷

Many parents, Crooker declared, were abandoning their farms and moving to towns and larger cities to give their children the opportunity for an education available in urban areas. If the diversion of funds could be stopped, and better teachers made available to the rural schools, this movement away from the farm would cease.⁸

Superintendent Crooker charged further that a decrease of over 40,000 in attendance in rural schools in the past ten years could be attributed to the practice of diverting state funds to "paying premiums on certain acquirements of scholarship."⁹ The fact that seventy-four per cent of rural children attended school some portion of the year as against only forty-seven per cent of city children, indicated to Crooker that rural people cherished the privileges of education.

⁷New York (State), "Report of the Superintendent of Public Instruction," Assembly Document No. 42, 1894 (Albany: James B. Lyon), pp. 7-8.

⁸Ibid., p. 10.

⁹Ibid., p. 12.

The country schools should receive our tenderest care and hearty support. On the common district school, that little red house on the hill, in the valley or by the wayside, depends, to a very large extent, the welfare of the State. There the great masses of our future citizens of sterling and honest principles of manhood receive their inceptive training. From such schools come many of the men who determine at the ballot box what kind of government we shall have; some of the most prominent and distinguished citizens who make and execute our laws. It is there that many of the most successful business men . . . receive their first training. Therefore these schools should not be overlooked or weakened by neglect, or through schemes of favoritism to others.¹⁰

Mr. Crooker returned to this argument at a later point in his report, asserting that the first duty of the state in education was to provide sound, useful instruction for all children within its borders. About ninety per cent of children had to leave school after completing the study of the common branches, and the elementary schools should therefore be the chief concern of the state program of education.

It is to the thousands of children whose education is necessarily limited to the elementary classes that the State must look . . . for the mass of its citizens, not to the comparative few who are enabled by more fortunate surroundings to graduate from high schools, academies and colleges.¹¹

Superintendent Crooker further took issue with the practice of pushing children into higher branches of learning before they were well grounded in the elementary subjects,

¹⁰Ibid., p. 13.

¹¹Ibid., pp. 34-35.

arguing that education should be thorough, that children should have time to digest knowledge and be trained to think, and that a better education would result from the more thorough knowledge of fewer books.¹²

Education . . . should be practical and general. It should include the entire mass of the people, not solely or particularly a few favored by fortune. It should aim at the thorough instruction of the many, not the special aggrandizement of the few. Public funds intended for general educational purposes should be primarily devoted to the elementary schools. The people . . . want their children to read, write, spell and cipher correctly before they seek diplomas and academic honors.¹³

Mr. Crooker took issue with Edwards for criticizing his previous report at the university convocation of that year. He asserted that he was thoroughly in favor of higher education, but did not believe that it should be acquired by the few at the expense of the many.

Our public school system was established for the benefit of all the people. . . . Any new-fangled theory of educational diversion from this system calculated to disturb its development or to deprive it of one dollar of the funds that rightly belong to it, should be promptly and perseveringly resisted by every true friend of education.¹⁴

Replying to the questions whether the expenditure to which he had referred as "questionable" were so because of

¹²Ibid., pp. 36-37.

¹³Ibid., pp. 37-38.

¹⁴Ibid., pp. 43-44.

propriety or because of the method of administration, Crooker asserted that even if they were made according to law, they were not necessarily just and equitable. The word "questionable" also referred to the method of administering educational affairs through two departments, with resulting friction and unnecessary expense. It was also questionable to pay our state funds to schools as "premiums for pupils who pass examinations on questions sent out to them," for every dollar of the money so spent belonged rightfully to the elementary schools. The practice of paying these "bounties on percentages of examinations" was considered by many educators as "narrow in its educational tendencies and vicious in its practices."¹⁵

The books of the state comptroller showed that \$226,989 had been paid out annually for higher education.

There is no reason or justice in a system that would divert large sums of the school moneys for the benefit of less than two per cent of the school population.

Those with the ambition to gain a higher education would get it without special aid from the state.¹⁶

These facts are presented for the purpose of inducing closer scrutiny and investigation into the present dual system of school management and the divided responsibility of the disbursement of the school moneys with a view of economy and the correction of evil tendencies.

¹⁵ Ibid., pp. 44-46.

¹⁶ Ibid., p. 46.

The unnecessary expense of sustaining two educational departments is sufficiently great, alone, to entitle this question to serious consideration, and as a matter State economy, I most respectfully recommend that the Legislature in its wisdom adopt measures to change this dual system into a single-headed, responsible management of all State educational interests, by which a great deal of expense may be spared. . . .¹⁷

At the university convocation of that year Chancellor Anson J. Upson referred to the charges by Superintendent Crooker:

. . . You know that in hunting about for some real or imagined point of attack upon the regents of the University those who represent the demagogues in education have suddenly become inspired with a surprising missionary zeal to benefit the neglected rural districts. . . . Although they themselves now distribute millions to school districts in all parts of the state, yet such are the necessities of these remoter rural districts as now seen for the first time by these sharp-eyed benefactors, that the income of this little fund the literature fund must be taken away from the poor, struggling boys and girls of the academies and high schools and distributed at the rate of less than one cent a day to teachers who are no more necessitous than others, but who happen to live in the country!¹⁸

Chancellor Upson was sure that this display of benevolence had done no harm, and that the discussions had brought to thoughtful people a knowledge of educational methods which they otherwise would not have had. Principals of high schools and academies had done well in presenting the truth to the public.

¹⁷Ibid., pp. 47-48.

¹⁸New York (State) University, Proceedings of the Convocation of 1894, Regents Bulletin No. 28 (Albany: University of the State of New York), pp. 166-167.

However, he continued, such attacks should not be possible.

These frequent conflicts, these attacks by the department of public instruction and necessary defense by the regents, this endeavor to divide our educational forces . . . into two hostile camps of public educators, ought not to continue. . . . By combining the two departments together /sic/ into one, by constitutional unification, if you please, such friction should be made forever impossible.¹⁹

Principal John F. Mullany of the Academy of the Sacred Heart, Syracuse, came to the defense of the regents in an address, declaring that the regents system eliminated prejudice, fostered a healthy spirit of emulation among pupils and teachers, and accepted the Catholic schools on the same footing as other schools in the state.²⁰

James T. Edwards, who had replied to Crooker's charges in the convocation of 1893, repeated his defense of secondary education in another prepared address. He referred to the growth of academies to a total of 442 with nearly 40,000 students, and declared that schoolmen had viewed with amazement the efforts of Crooker to change the state policy on secondary education. There were two questions before the convocation for discussion at the moment: why should the state continue to assist secondary schools, and why should not their supervision and control be assigned to another

¹⁹ Ibid., p. 167.

²⁰ Ibid., pp. 217-219.

agency? The department of public instruction proposed the discontinuance of appropriations to secondary schools, and the unification of the two departments.²¹

Mr. Edwards referred to the superintendent's charge that money was being spent in "questionable" ways, and asserted that the burden of proof was upon Crooker to show that the changes he proposed would be productive of better results than those previously secured. The measures suggested called for a reversal of the traditions and practices of the state for over a century.²²

Mr. Edwards declared that while he was chairman of the senate education committee, he had made an investigation of the status of the school funds, and had found that the capital of the United States Deposit fund had been \$4,014,520.71 on October 1, 1839, and exactly the same on the same date in 1891. During that period the fund had produced over \$12,000,000, of which over nine millions had been paid to the common schools, and over three millions to secondary and higher education.²³ He reminded his audience that only \$106,000 had been "diverted" to secondary education, which would add only one cent a day to the wages of teachers. This sum was small compared to the over five

²¹Ibid., pp. 220-221.

²²Ibid., pp. 221-222.

²³Ibid., p. 223.

million dollars spent by the state for the common schools.²⁴

According to Crooker himself there were few districts that could not support a good school on a tax of one-half of one per cent. Further, the secondary schools were furnishing the common schools with the bulk of their teachers, since only three thousand of the thirty-two thousand teachers in the state were normal school graduates. The secondary schools stimulated the common schools to do better work, so that students would do creditable work if they went further in school.²⁵

Education did work downward rather than upward, for there were colleges in this country before there were common schools. Secondary schools antedated common schools in New York, and the regents were instrumental in establishing the common school system. Edwards referred to the fact that thirty-nine of the fifty-six signers of the Declaration of Independence were college-educated, and the percentage of college-educated men in the higher ranks of government office was very large. Higher education must be made available, for:

It offers to every citizen a ladder up which he may mount to the highest round of vantage and power. This is true democracy. Make it possible, because of the poverty of the individual or the illiberality of the state, for humble youth to secure mental culture, and you subordinate them thereby to an educated class; for

²⁴Ibid., p. 224.

²⁵Ibid., pp. 224-225.

it must never be forgotten that education means power of control.²⁶

A state should make it as easy as possible for its people to develop their talents, and for them to become wise. These considerations should cause the state to refuse to abandon the policy which had been followed regarding secondary schools. There should be no narrow jealousy between departments of the educational system, and all grades of schools should unite to accomplish the education of men and women to become wise and virtuous citizens.²⁷

Mr. Edwards thought that time would not permit him to discuss the question of unification of control. It would, however, be a gain to have the department of public instruction taken out of politics. The office was then quite definitely partisan, while regents had usually been selected because of their "integrity, conspicuous ability and unselfish devotion to the cause of education."²⁸

Principal Joseph E. King of the Fort Edward Collegiate Institute led the discussion on the Edwards paper, and raised the question:

In the interest of a conservative and wise progress educationally, what shall the professors and teachers of the state ask of the constitutional convention?²⁹

²⁶Ibid., pp. 227-229.

²⁷Ibid., pp. 229-230.

²⁸Ibid., p. 230.

²⁹Ibid., p. 235.

Mr. King offered two proposals, which he defended in his remarks:

1 That in rewriting the constitution, the regents shall be duly recognized as a constituent part of the organic structure of the commonwealth, the manner of the election of their successors, the tenure of their offices, their compensation being prescribed, and their powers, prerogatives and duties being defined.

2 That among the powers and duties of the board of regents shall be the election of the superintendent of public instruction.³⁰

The purpose of the first provision would be to assure the continuation of the beneficent supervision of the regents. The second provision would "secure needed unity in our double-headed system of education . . . without violence or any unnecessary friction." The only thing that saved the present arrangement from being a monstrosity was the good sense of officials on both sides. The Siamese twins seemed able to get on tolerably well, but one would scarcely wish to take them as models.³¹

Our situation educationally today is undignified, unwise, unsafe and unworthy of the great state of New York in the last decade of the 19th century. Let us rise up together and aid in building an educational structure symmetrical, substantial and enduring, that shall be a safe shelter and furnish doors of opportunity for our children's children and that shall be a worthy model and an object lesson to our sister states.³²

³⁰Ibid., p. 235.

³¹Ibid., pp. 236-237.

³²Ibid., p. 239.

O. D. Robinson of Albany reported that the principals' council, appointed annually by the Associated Academic Principals, had become concerned over the attacks from the department of public instruction. Since the regents did not think it correct for them to engage in public debate, the principals' council had taken up the matter, and had sent on March 24, 1894, a letter to all heads of academies and high schools asking each one to take what steps he could in behalf of the regents. They had also drawn up a letter which was sent to 1300 editors stating as positively as possible in "three solid pages" the situation as the principals understood it.³³

Lest anyone think that they had gone out of their way to do an unseemly or unkind thing, Robinson offered an anecdote as explanation. According to his story, Abraham Lincoln had found himself in an open field near an irate bull who set out in pursuit. The bull was gaining on Mr. Lincoln, who, however, managed to reach a nearby haystack. In the course of the pursuit around the haystack Mr. Lincoln found himself gaining on the bull, and seizing a stake from the stack, began to lay it on the bull's sides. The animal bel-
lowed piteously, but Mr. Lincoln, still laying the stick on lustily, inquired, "Well, who began this, anyway?"³⁴

On July 5, 1894, Andrew S. Draper came to the defense

³³Ibid., pp. 251-252.

³⁴Ibid., p. 253.

of the regents in an address to the convocation. Referring to Crooker's excoriation of the spending of money for higher education, Draper declared that the attacks indicated "an unfortunate obscurity of vision as to the best interests of the elementary schools" as well as of the secondary institutions. The teachers themselves knew that they should be products of good secondary schools, and few of them would desire increases in salary at the expense of the high schools.³⁵

Mr. Draper reviewed the history of the two school systems, and pointed out that the regents had been instrumental in obtaining the law providing for elementary schools. However, there was a considerable amount of suspicion of the "Columbia College crowd" on the Board of Regents, and the legislature refused to place the supervision of the common schools in the hands of the university. Instead the law deliberately provided for a second department.³⁶

Mr. Draper realized how common was the criticism of the two-headed system, but he did not sympathize with this spirit. The best interests of the common schools required supervision and administration separate from that of the higher institutions. A plan of control which would work well in another state would not serve in New York. No state board of education could have accomplished in a

³⁵Ibid., pp. 257-258.

³⁶Ibid., pp. 267-268.

hundred years what the two departments had accomplished.³⁷

The status of the university and of the department of public instruction was the subject of an intensive investigation by the education committee of the constitutional revision convention, which was in session from May 8 to September 29, 1894. The committee held twenty-one meetings, and presented to the convention a report which was a comprehensive summary of the arguments presented in its sessions as well as in the controversy which raged before and after the convention. The committee report acknowledged the aid and suggestions of many of the foremost educators of the state, who had either appeared before the meetings or provided prepared statements.³⁸

Section 2 of the committee's proposed Article IX gave constitutional status to the Board of Regents in these words:

The corporation created in seventeen hundred and eighty-four, under the name of the Regents of the University of the State of New York, is hereby continued under the name of the University of the State of New York. It shall be governed, and all its corporate powers exercised by not less than nine regents.³⁹

The section was intended to give recognition and

³⁷Ibid., p. 268.

³⁸New York (State), Revised Record of the Constitutional Convention of 1894 (Albany: The Argus Co., 1900), Vol. V, p. 693.

³⁹Ibid., p. 692.

permanence to the university, while leaving its powers and duties in the hands of the legislature. This seemed to be the solution desired by the most competent educators in the state. The committee admitted that the two distinct coordinate departments of public education formed a system without theoretical unity, but with a great deal of complexity. However the university was the oldest institution in the state and had "survived unchanged all the vicissitudes of more than a century."⁴⁰

At the Paris World's Fair in 1889 the grand prix had been awarded to the regents of the university in recognition of the fact that Napoleon had modeled the National University of France upon the form established in New York. At the Columbian Exposition in Chicago in 1893 a special award and recognition was given to the university because of the large number of illustrious citizens who had served as regents without compensation. New York remained the only state in the union to have a separate department devoted to higher education, and was therefore the only state which recognized that all forms of education were the concern of the commonwealth. It was true, the committee report admitted, that there had been "grave objections and severe criticism" concerning this point of view, but there could be no question as to the policy of the state.⁴¹

⁴⁰ Ibid., p. 695.

⁴¹ Ibid., pp. 695-696.

The report re-stated the position taken by speakers in the university convocation, that education works downward from the higher institutions. Higher education in this state had been a chief factor in developing the elementary and secondary schools. In the words of President Seth Low of Columbia:

. . . Elementary and secondary education, as systems which have been made available to great masses of men, have followed the dissemination of light that has proceeded from the universities as light shines from the stars in the wide arch of heaven. It is the stars that have made the light, not the light that makes the stars.⁴²

The committee believed the people realized that if the educational system should be struck from the top, the bottom would be paralyzed, and that it would be impossible to have an effective, isolated system of common schools. Only from the secondary and higher schools could competent teachers for the common schools be obtained. The committee estimated that five-sixths of the common school teachers of the state had received part or all of their advanced education in the high schools and academies of the state, and not over one-tenth were graduates of the normal schools. In the words of one superintendent, expecting the common schools to flourish without the higher institutions would be like expecting infancy to maintain itself. If state support of

⁴²Ibid., p. 696.

higher education were withdrawn, the result would be class education in its worst form. The rich would send their children to private schools, and the poor would have no advanced education. The withdrawal of the rich from the elementary schools would result in attendance at these schools becoming a badge of indigence.⁴³

The importance of the public high school system was seen from statistics released by the United States Commissioner of Education, showing that more than two-thirds of the pupils in secondary schools were attending public high schools.⁴⁴

The committee report stated the belief of the members that the department of public instruction had performed its duties as faithfully as possible under the handicap of having no organic connection with the rest of the educational system. Unification of the entire system would tend to increase the efficiency of the department. The office of superintendent of public instruction could continue to be one worthy of the best talent in the state.⁴⁵

The committee quoted with approval the statement of Huxley that an educational system should be a ladder with its foot in the gutter and its top in the university, every step and rung complete and within the reach of every climber.

⁴³Ibid., p. 698.

⁴⁴Ibid., pp. 698-699.

⁴⁵Ibid., p. 699.

The committee recognized with regret that there was a break in the progression in the state system; not a fatal break, but a serious one. The members were unanimous in their agreement on the abstract principle of unification, but there were many views as to the method of accomplishing it. Two methods had been suggested:

First: to make the office of superintendent of public instruction elective by the Board of Regents, holding office either for a fixed term or at the pleasure of the board.

Second: the creation of a new central authority which would unite in itself the functions of both departments.

A third method, the subordination of the regents to the department, had not been seriously considered by the committee.⁴⁶

An essential factor in addition to the setting up of a complete and harmonious plan, was the removal of the educational system from the domain of party politics. All critics of the school system were agreed that little improvement could be expected so long as public service connected with the schools could be considered among the party spoils. The committee believed that the public had become convinced that this step must be taken. The principal argument for the first proposal was that although the superintendent was invariably elected on partisan grounds by the legislature,

⁴⁶Ibid., p. 700.

the regents could be expected to make a selection on the basis of competence. The principal argument against the second proposal was the likelihood that partisan politics would be strengthened rather than diminished.⁴⁷

After hearing all arguments on unification, the committee had been unable to agree upon any constitutional provision. Many of the proposals were extremely tentative. The wisest expedient, therefore, seemed to be to place the university in the constitution to protect it from "hasty or ill-advised legislation," but leaving further action to the legislature.⁴⁸

That Superintendent Crooker was not at all impressed with the action of the convention and the committee's statement of the case for the regents and the cause of higher education, is evident in his report of 1895. He referred to his previous allusions to the "injustice and deleterious effects of the dual-headed system" in the management of public education, and re-asserted his stubbornly held opinion that a large sum of money which rightfully belonged to the common school funds was being withheld and devoted

to a purpose entirely at variance with the spirit of free public education. This diversion is wrong in principle, wrong in application, and vicious in its

⁴⁷Ibid., p. 701.

⁴⁸Ibid., pp. 701-702.

tendencies and results.⁴⁹

This double-headed educational management, in the opinion of Mr. Crooker, was the "most peculiar feature in this state or in any other." No other department in the state had two heads to manage its affairs. One branch of the educational system distributed part of the school funds according to "its own peculiar and independent rules" while the other branch apportioned the money according to law. The one branch distributed money to a few schools as a premium on the results of examinations taken by a few pupils, while the other distributed funds to all schools without regard to their character or the grades of scholarship. This resulted in some schools receiving an extra apportionment beyond their proper legal share. This was unfair, since the extra funds usually went to districts well able to meet all demands. If any "favoritism" were to be shown through the payment of extra state money, it should "in the name of charity" be shown to the poor districts.⁵⁰

Superintendent Crooker reasserted the ancient argument that the regents had no authority over the schools at

⁴⁹New York (State), "Report of the Superintendent of Public Instruction," Assembly Document No. 34, 1895 (Albany: Wynkoop Hallenbeck Crawford Co.), p. 54.

⁵⁰Ibid., pp. 54-55.

all,⁵¹ and stated his opinion that their relations were so slender that if severed, the schools would feel only relief at being released from the need of cramming for examinations. The regents had no authority over organization or management of schools, their curricula, hiring or licensing of teachers, the boundaries of districts, or any controversies. He then went back thirty years and quoted from Mr. Curtis' statement to the constitutional revision convention of 1867-1868.⁵²

Mr. Crooker pointed out that if anyone should suggest that there should be one state treasurer to look after school funds, and another to take care of other revenues, he would be regarded as wild and irresponsible. Such a proposal would be no more absurd than the existing system of control of education. The claim that the Board of Regents cost the state very little could not be substantiated, since the comptroller's books showed that during the preceding year the regents

⁵¹This statement by Crooker does not conform to the facts as found in Section 14 of the revised university law of 1889, pp. 724, 723: "The Regents shall by themselves or their committees of officers have full power to examine into the condition and operation of every institution in the University, and shall inspect the same, and require of each an annual report verified by the oath of its presiding officer and including such particulars as may be prescribed by the Regents. . . . For refusal or continued neglect on the part of any institution of the University to make the report required by this section. . . the Regents may suspend the charter or any of the rights and privileges of such institution." In Section 3 the University had been defined as "all the institutions of academic and higher education which are now or hereafter may be incorporated in this State."

⁵²Assembly Document No. 34, 1895, pp. 55-56.

had received over \$185,500.⁵³

Table VII indicates the cost of comparative items of expense in the two departments, according to figures given by Crooker in his report.

TABLE VII
COMPARISON OF EXPENDITURES, AND NUMBER OF SCHOOLS
AND NUMBER OF PUPILS SUPERVISED BY THE DEPART-
MENT OF PUBLIC INSTRUCTION AND THE REGENTS*

	Department	Regents
Salary list, exclusive of Supt. and deputy	\$ 15,900.01	\$ 43,251.19
Transportation	1,065.14	2,424.20
Postage	970.65	1,820.00
Stationery	842.07	1,876.87
Other office expenses	4,269.04	8,200.69
Number schools supervised	12,015	499
Number pupils enrolled	1,083,228	63,872

*New York (State), "Report of Superintendent of Public Instruction," Assembly Document No. 34, 1895 (Albany: Wynkoop Hallenbeck Crawford Co.), p. 60.

There is no indication of the reason why the superintendent excluded from this tabulation his own salary and that of his deputy, since there is little doubt that the figure given for the regents included the salary of the

⁵³Ibid., pp. 59-60.

secretary of the board. It should be noted that the total of departmental expenditures in Table VII is \$23,046.91. At another point in his report Crooker gives the expenditures in behalf of his department as \$41,109.61.⁵⁴

Mr. Crooker believed that the state appropriation for the support of the regents was a useless expense, and he again protested against taking away any portion of the state money from the common school fund, to sustain two departments, and to practice "favoritism" toward one branch of the school system at the expense of another. There was no excuse for giving rich districts in cities five or six thousand dollars extra, when additional support, if any, should be given to poor districts to enable them to maintain a school.⁵⁵ The constitution as revised in 1894 had provided against payment of public school aid to private or parochial institutions, and the legislature should prevent the spending of any money by the regents on the basis of examinations.⁵⁶

In support of his argument Crooker quoted Superintendent Charles W. Cole of the Albany schools as urging that regents' question papers be no longer used as a test for admission to high school. Mr. Cole proposed using question papers which he would prepare on the basis of their own

⁵⁴Ibid., p. 120.

⁵⁵Ibid., p. 61.

⁵⁶Ibid., p. 62.

course of study. He had no objection to using regents' papers with the understanding that they would be regarded as incidental, and not be considered as a factor in the promotion of pupils. However, if it was found that regents' examinations continued to be "incubi" on the work of the schools, he would not hesitate to advise their abandonment at once.⁵⁷

Mr. Crooker admitted that regents' examinations might be in some ways beneficial, but he could not see why they should be conducted by an educational office outside the department of public instruction, which had jurisdiction over all other educational matters in the schools in which the examinations were used.⁵⁸

At the university convocation of 1895, Chancellor Upson made the only allusion to the controversy with the department of public instruction. He was in a cheerful mood when he referred to the action of the convention the previous year, and declared that by their approval the people had expressed their confidence in the university. The people might rest assured they had made no mistake in confirming the privileges and responsibilities of the university, for:

never in the history of the University for the 111 years of its life have these privileges been appreciated so

⁵⁷Ibid., p. 62.

⁵⁸Ibid., p. 62.

highly or these obligations obeyed so faithfully.⁵⁹

By a joint resolution of the Senate and Assembly adopted during the 1895 session, a thorough investigation was undertaken of all the administrative offices of the state.⁶⁰ A subcommittee investigated the Board of Regents, and handed in a report which absolved them from any form of administrative inefficiency or wrong-doing. The subcommittee report pointed out that the original purpose of the study was to determine what legislation might be necessary to provide the university with the means of carrying out its responsibilities. However, the committee found itself faced with complaints against the secretary of the regents, which it was felt had to be investigated thoroughly in justice to the "high character of the Regents and the persons particularly involved."⁶¹

The committee found that under the direction of Secretary Melvil Dewey many changes in administrative practice and procedure had been carried out, giving rise to the complaints. The committee wished it understood at the outset

⁵⁹New York (State) University, Proceedings of the Convocation of 1895, Regents Bulletin No. 32 (Albany: University of the State of New York), pp. 752-753.

⁶⁰New York (State), Assembly Journal, 1895 (Albany: James B. Lyon), Vol. I, p. 199; New York (State), Senate Journal, 1895 (Albany: James B. Lyon), Vol. I, p. 165.

⁶¹New York (State), "Report of the subcommittee of the joint committee of the Senate and Assembly appointed to investigate the State departments," Assembly Document No. 89, 1896 (Albany: Wynkoop Hallenbeck Crawford Co.), pp. 3-4.

that

no charge or intimation was made to involve in any respect the official action or personal character of any member of the Board of Regents.⁶²

The committee felt that the complaints resulted from the opposition of individuals of the "vigorous, not to say aggressive" policy of Mr. Dewey, who had overturned obsolete practices and reorganized both the operation and the personnel of the office. The members felt that the opposition stemmed from those who were unwilling to accept the new methods. No charge had been made that the methods used were intended to exert an injurious effect on the cause of education. The report then came to the point of its findings as to the complaints:

A man endowed with the progressive spirit, energy and will displayed by Professor Dewey might be expected to incur opposition, if not hostility, to his conception of the duty and responsibility of office.⁶³

Charges that he used his office for private purposes were undoubtedly made against Dewey for the purpose of creating unfavorable opinion and hampering his plans. The charges were made so directly and publicly that they became serious matters. It would not have been fair to Dewey to withhold the statement that he repeatedly demanded a most thorough

⁶²Ibid., p. 4.

⁶³Ibid., p. 5.

investigation into any insinuation or charge made against him, or any of his official acts. Witnesses were therefore called, and their testimony failed to substantiate a single charge made against Dewey's integrity and official conduct.⁶⁴

In weighing all the testimony taken . . . no other result could be reached by the committee than that the charges were not only not sustained, but that in the means and spirit in which they were brought and persistently prosecuted, they were vexatious, frivolous and detrimental to the public interests.⁶⁵

The committee went thoroughly into the details of friction between Secretary Dewey and Dr. James Hall, the state geologist.⁶⁶ Of their investigation of the organization and management of the regents' office, the committee said:

A most thorough and systematic organization . . . was observed in every department, and it is the opinion of the committee that the management of the University in all of its ramifications is wisely and economically administered.⁶⁷

On this triumphal note, so far as the regents are concerned, we bring to a close the history of another period of attack and counter-attack by the opponents and friends of the Board of Regents. The history of the period as it has been related indicates quite fully the extent of the public

⁶⁴Ibid., pp. 5-6.

⁶⁵Ibid., p. 6.

⁶⁶Ibid., pp. 7-15.

⁶⁷Ibid., p. 15.

support which the regents commanded.

In the next chapter we shall describe the occurrences of the first portion of the final seven-year period of this study. During this time, 1897 to 1904, the discussion of unification began to wax furious, and finally culminated in 1904 in the passage of the act which unified the educational system of the state. Because of the detailed nature of this particular portion of the study, it will be necessary to break it rather arbitrarily into two chapters.


CHAPTER IX

CAMPAIGN FOR UNIFICATION: 1897-1902

In the previous chapter we noted the attacks made on the Board of Regents by Superintendent Crooker, and the achievement of constitutional status for the regents in the revision convention of 1894. Particular attention should be directed to the latter fact, for it furnished a principal argument for the pro-regents' faction in the unification campaign to follow.

In this chapter the efforts for unification of the educational departments reach full stature, accompanied by widespread discussion in the state press and in educational meetings, and marked by a disturbing degree of acrimony on the part of the principal contestants. However, it will appear that the offensive seems to have been taken for the most part by persons connected with the office of the state superintendent.

The friction between the two educational departments crept into the proceedings of the university convocation in June, 1897. In the afternoon session of Tuesday, June 28, Charles Z. Lincoln, chairman of the state statutory revision committee brought the matter into his discussion of a proposed new education law. After sketching briefly the history of the state's educational system, Lincoln touched upon the



split between the two departments in these words:

University supervision . . . has expanded far beyond the original conception, including now not only the private educational institutions . . . first embraced in the University, but also reaching down into the common schools. Our predecessors began at the top to build the educational system, and it was nearly 30 years after the establishment of the University before a permanent general system of education was fully established. The development . . . has been spasmodic, and not always satisfactory nor consistent, and this result may be attributable to some extent at least to the dual character of educational legislation.¹

Lincoln pointed out that the idea of public education precluded limiting the jurisdiction of the department of public instruction to the elementary schools, and further, that the action of the legislature in giving to the department control over the normal schools and the power to license teachers, indicated an intention on the part of the lawmakers to use both the department and the Board of Regents indiscriminately in carrying forward a program of education "from kindergarten to college."² The dual role of the superintendent, as ex officio member of the Board of Regents, he asserted, should not be overlooked in adjusting the questions of jurisdiction between the two branches of the state system.³

The most troublesome point at which the activities of

¹New York (State), University, Proceedings of the Convocation of 1897, Regents Bulletin No. 42 (Albany: University of the State of New York), p. 292.

²Ibid., p. 293.

³Ibid., p. 293.

the two departments touched was in the academic divisions of the union free schools. The provision giving the regents the right to assume the supervision of these academic departments, which were in many cases mere extensions of the common school programs, resulted in a

supervision coordinate in some respects with that possessed by the superintendent of public instruction. The consequence is that in a large number of schools there is a double supervision, with a double appropriation and distribution of public funds, and it is almost inevitable that differences of opinion will arise, if not actual friction, concerning methods and details of administration.⁴

The solution to the difficulty, Lincoln declared, lay in the establishment of a clear line of demarcation between the two departments. Absolute consolidation is probably not practicable at this time. Both departments must, therefore, be continued, but the sphere of activity of each should be clearly defined. Elimination of the overlapping supervision of the two departments in academic matters could be accomplished by limiting the supervision of the regents to those academic departments which were chartered as high schools, with a separate faculty and definitely separate quarters, leaving to the superintendent of public instruction jurisdiction over all tax-supported schools except the independent high school departments.⁵

⁴Ibid., p. 298.

⁵Ibid., pp. 299-300.

Eventual settlement of the educational problem would seem to require the establishment of a state board of education, which was the subject of some attention by the constitutional convention in 1894. Such a board might be given power to choose the managers or trustees of the university, as well as the superintendent, and have power also to supervise the entire state system of education.⁶

The statutory revision commission's bill was introduced into the Assembly on February 21 by Mr. Kelsey.⁷ The bill attempted to combine the consolidated school law and the university law, so far as supervision was concerned. It apparently succeeded in making a satisfactory combination, for at their meeting of January 29 the regents had discussed the bill at length and agreed to make no objection to the wording.⁸ However, while agreeing to the thirty-year minimum age limit for regents, and the dropping of two ex officio and four elective regents to reduce the number, the board questioned the wisdom of making elective regents honorary at the age of seventy.⁹

⁶Ibid., pp. 301-302.

⁷New York (State), Assembly Journal, 1898 (Albany: Wynkoop Hallenbeck Crawford Co.), Vol. I, p. 77.

⁸New York (State) University, Minutes of the Board of Regents, 1898 (Albany: University of the State of New York), p. 475.

⁹Ibid., p. 475.

They approved the requirement that a majority of regents must constitute a quorum, and the attempt to provide a sharp line of demarcation between the work of the superintendent and of the university. Acknowledging that there was considerable overlapping in function, the board proposed that everything pertaining to high school, academic, higher and home education, including libraries and museums, be placed under the university, leaving kindergartens, primary and grammar schools, normal schools and training classes for teachers under the superintendent. This plan would require the regents to transfer the system of preliminary examinations, while they would assume the power to apportion all funds for secondary education.¹⁰

Specifically, and further, the bill provided that the term of the superintendent should be increased from three to six years, apparently in an effort to minimize the political influence charged in the elections. The elective regents were to hold office during good behavior, but as vacancies occurred they were not to be filled until the number of regents had been reduced below fifteen, which was fixed as the number of elective members.¹¹

The bill contained a peculiarly worded and obscure provision which created a considerable amount of discussion:

¹⁰Ibid., pp. 475-476.

¹¹"The Proposed Education Law" (editorial), School Bulletin, XXIV (Mar., 1898), p. 124.

Sec. 18. Supervision under this chapter exclusive.-- Where a school or institution is subject to the supervision of the department of public instruction, the university, the school authorities, or other school officers, or two or more of them, such supervision is exclusive.¹²

No comment has been found which throws any light on the intent of the commission in including this section.

On March 26 a substitute was reported for the Kelsey bill. The substitute was printed and returned to the committee on rules from which it did not emerge.¹³

At the December, 1898, meeting of the Associated Academic Principals occurred a passage of words between Superintendent Skinner and Secretary Dewey over improvement of standards in teaching, which illustrate the degree of feeling between the departments and the tendency of Skinner to take the offensive. Dewey, arguing for improved standards of certification of teachers, said that the people were protected by law against unprepared doctors, lawyers and veterinarians. Skinner bristled and wanted to know if Dewey could point out a single instance in which the New York state schools were defective. The secretary replied merely that he did not think anyone thought them to be perfect.¹⁴

Later in the same session Dewey proposed a grant of

¹²Ibid., p. 125.

¹³Assembly Journal, 1898, Vol. III, p. 2329.

¹⁴"The Academic Principals" (editorial), School Bulletin, XXV (Jan., 1899), p. 98.

an extra one hundred dollars for a high school teacher with certification beyond the minimum requirement. Again Skinner bristled and said, "You will give an extra hundred dollars for the high school teacher. What will you do for the teachers in the primary department?" Dewey bowed and replied, "I should leave that matter entirely to the able direction of the State Superintendent, who has charge of the primary department."¹⁵

At this same session the principals engaged in a warm debate on that portion of Lincoln's proposal, made at the convocation (p. 276 supra), that the university give up the supervision of academic departments in union free schools not entirely separate from other departments of the school. The general tenor of the debate indicated a feeling that the regents should retain control. Principal Baldwin of West Hebron in particular gave testimony as to the aid received from the regents in a junior grade school which had no prospect of becoming a full-fledged high school for lack of community resources. Mr. Ainsworth, the deputy superintendent, argued for transfer to the department. In reporting the debate in the School Bulletin Mr. Bardeen commented that the tone of the discussion showed hostility toward Dewey on the part of the members of the department of public instruction.¹⁶

¹⁵Ibid., p. 98.

¹⁶Ibid., p. 98.

Unification was a main topic of conversation during the session of the legislature that year. The statutory revision commission's bill was revived in practically the same form, including the peculiar section on "exclusive supervision."¹⁷ The bill was the subject of discussion at what Bardeen referred to as a "lunch" given by James Russell Parsons, Jr. of the regents' office on February 6, at which Governor Theodore Roosevelt, Superintendent Skinner, Secretary Dewey, Dr. Nicholas Murray Butler of the Educational Review, and Bardeen were present. Governor Roosevelt expressed his opinion that consolidation of the departments would result in simplicity, economy and efficiency. At his suggestion the remainder of the group spent the afternoon exploring the matter. As a direct result of this conference Senator Horace White asked the revision commission to bring in a new proposal for a commissioner of education appointed by the governor with the consent of the Senate, with three deputies to take over the work of higher, secondary and primary education. This arrangement would supersede the department as well as the Board of Regents.¹⁸

In his annual report issued in March, 1899, Superintendent Skinner placed the blame for the dual administration of education on "piecemeal legislation." He pointed out that

¹⁷"Proposed Education Law" (editorial), School Bulletin, XXV (Feb., 1899), p. 107.

¹⁸(Item), School Bulletin, XXV (Mar., 1899), p. 131.

the state would not maintain two tax departments, or two insurance departments, and asserted that it was proposed "in certain quarters" to extend "this pernicious system" to the licensing of teachers, dividing the authority between the department and the Board of Regents.¹⁹

Mr. Skinner urged that a line of demarcation be drawn between the two departments and the work performed by them. He proposed that the department be given control of all schools maintained by general taxation, with authority to license all teachers for these schools and to apportion and distribute funds provided by the state. The department should also have charge of teacher training institutions. He would give to the Board of Regents supervision over private schools and others not maintained by taxation, as well as all libraries, including school libraries, and examinations for admission to professions.²⁰

Superintendent Skinner declared that this line of demarcation was

plain, natural, easily understood by everyone, and avoids all useless waste of money in maintaining two branches of the state government performing substantially the same work.

The only objection he had heard was based on the "purely

¹⁹New York (State), "Report of the Superintendent of Public Instruction," Assembly Document No. 56, 1899 (Albany: Wynkoop Hallenbeck Crawford Co.), pp. 8-9.

²⁰Ibid., p. 9.

sentimental reason" of the ancient and historic position of the Board of Regents.²¹

The superintendent also referred to the proposed legislation drawn up by the statutory revision commission, and declared that he had heard no objection to it from any city, from any of the 114 school commissioners, or from any one of the 60,000 school officers or 30,000 teachers. He supported the bill as being intended to stop "this constant encroaching by one department on the field occupied by the other."²²

As the legislative session drew toward its close, it appeared increasingly unlikely that any decision would be reached. Under the influence of Governor Roosevelt, Senator White and Judge Lincoln had been conferring frequently with representatives of the two warring departments in the hope of finding a workable solution. Dr. Butler pointed out editorially that Dewey and Skinner seemed to be approaching the question with "excellent spirit and temper."²³

The White bill which resulted from these discussions was reported favorably in the Senate. The bill empowered the governor to appoint a commissioner of education at a salary of \$7,000, to take office April 1. He would take

²¹Ibid., p. 9.

²²Ibid., pp. 10-11.

²³"Educational Unification in New York State" (editorial), Educational Review, XVII (Apr., 1899), pp. 410-411.

over all powers of the superintendent, as well as supervision of the 522 high schools. He might conduct examinations, issue diplomas and college entrance certificates, and appoint or remove his subordinates, chief among whom would be one deputy at \$6,000 per year and three at \$5,000. The regents would keep all other powers previously held and in addition control the state teachers' library.²⁴

Amendments resulting from these discussions came before the Board of Regents at its spring meetings. On April 6 the board adopted resolutions based on a proposal by Regent McKelway, protesting against the bill to establish a state commissioner of education as "unnecessary, violent, revolutionary and unjust."

It would wipe out the department of public instruction without cause shown for its effacement; it would build upon its ruins a new department of government, the creation of which has been asked by none of the schools, academies or colleges of this state; it would make that department liable to the abuses of political mismanagement and of partizan /sic/ error and evil which have more than once in other fields involved our state in scandal . . . ; it would bring, far more than at present, our system of common school instruction within the play and purview of politics and within the methods and schemes of professional politicians; it would aggrandize powers in the commissioner and in his deputies which no educator should approve, no statesman sanction and no friend of upright or scientific government contemplate without indignation and alarm. . . .²⁵

²⁴(Item), School Bulletin, XXV (Apr., 1899), p. 161.

²⁵New York (State) University, Minutes of the Board of Regents, 1899 (Albany: University of the State of New York), pp. 517-518.

The regents further protested vigorously against the proposal to separate the high schools from the university for they "have been its peculiar care and are the special pride and the beloved wards of this department . . ."26 The high schools were the foundation upon which the work of higher education had been built, and the graduation certificates from high school gave the right to go on to professional study. The board favored unification, but pending that achievement, preferred the present conditions as the lesser evil.27

On April 24 the regents met again to discuss the measure, and to protest against proposed amendments. They asserted that certain features of the bill would tend to increase and perpetuate dual administration, and to expose educational control to political and partisan influence. They urged that rather than pass hasty and ill-considered legislation, the matter might better be left until the next year, to allow more discussion. However, if legislation were to be passed at this session, the regents declared themselves in a formal resolution

. . . ready to favor heartily any well-considered law which will secure unification of the educational system of the state and its preservation from political interference and intrigue and to accept any change which the legislature may deem wise, as to their tenure of office,

²⁶Ibid., p. 518.

²⁷Ibid., p. 518.

the increase or diminution of their number, or the continuance of the present members of the board or of the University staff.²⁸

In another series of resolutions offered by Regent McKelway, the board reiterated its objections to the arbitrary effacement of the department of public instruction, and called attention to the "earnest and pathetic insistence" of the high schools that they retain their position in the university.

We reiterated our desire for a unification that unifies, our remonstrance against unification with unification left out, and our conviction that the proposed aggrandizement of one department should have a better defense than the opportunity or purpose to rob another, by the forced transfer of the high schools from our jurisdiction, under which they have prospered and rejoiced from the first, to one against which they protest. . . .²⁹

The board offered the opinion that the close of a contentious session was not a propitious time for the settlement of a "revolutionary policy" in the educational system. Snap judgments should be avoided, and the right of the people to publicity and discussion should be recognized.³⁰

An editorial in the May, 1899, issue of Educational Review summarized the arguments on the matter of unification, and criticized the revision commission bill for not providing for unification. Dr. Butler pointed out the inescapable fact

²⁸Ibid., pp. 519-520.

²⁹Ibid., p. 520.

³⁰Ibid., pp. 520-521.

that since the regents had been given a constitutional position, the only way to unify was to subordinate the superintendent to the regents, but public opinion did not seem to be ready for this step. One alternative would be the making over of the Board of Regents, to which its members would not agree. Therefore, the only remaining method would be to draw a line between the activities of the two divisions. That line could be properly drawn between state-supported schools on the one hand, and private and state-aided schools on the other.³¹

Dr. Butler took occasion also to criticize the regents for their unwillingness to surrender the supervision of the high schools, which he declared should be examined, supervised and inspected by the same authority as supervised the elementary schools. However, he admitted that their resolution of April 24 showed a softening of their attitude.

Our sense of humor, however, is sufficiently acute to cause us to smile when the Regents, as the proprietors of what is perhaps the best organized political machine in the State, lay so much stress on the chance of politics entering the school system. All politics is not by any means party politics.³²

Mr. Bardeen, whose attitude throughout the argument was consistently pro-regents, asserted a little later that

³¹"The Educational Situation in New York State" (editorial), Educational Review, XVII (May, 1899), pp. 511-512.

³²Ibid., p. 515.

the failure of the White bill was probably for the general good. He listed five reasons why the high schools should remain under the regents' control: (1) tradition; (2) their present condition was due to the fostering care of the board; (3) they belonged under the care of a department committed to furtherance of higher education; (4) if it made no difference which department controlled them, why change; (5) the new bill would not make the superintendent subject to the regents, merely elected by them, and he would have six years to do as he wished with the secondary system. "It is sound sense to let well enough alone."³³

The June, 1899, issue of Educational Review presented a comprehensive survey of opinion on unification. Fourteen prominent educators, including editors of school publications, principals, superintendents, the deputy state superintendent, members of the Board of Regents, and the secretary of the regents, participated in the discussion.

Deputy Superintendent Ainsworth admitted at the outset that unification was desirable.

We need two departments of public education as much as we need two bank departments, two insurance departments, two governors, two railroad tickets for a single journey, or as much as the proverbial dog needs two tails.³⁴

³³"The Charge of High Schools" (editorial), School Bulletin, XXV (June, 1899), p. 207.

³⁴D. E. Ainsworth and others, "Educational Legislation for New York State," Educational Review, XVIII (June, 1899), p. 43.

He defined unification as the placing under the head of a single department all that educational work which the state is required to carry on. Division of this work at any artificial point resulted in friction, and in waste of energy and public funds. He then examined the claims of the regents that they were entitled to retain control by virtue of their ancient traditions, and their status as a non-political body. So far as control over the common schools was concerned, tradition was no argument, for the regents had no relationships with them prior to the union free school act of 1853.³⁵

Mr. Ainsworth then turned to the charge that the superintendency was a political office, while the regents were non-political:

Bear in mind that the Regents are elected by the same body and in the same manner as the superintendent of public instruction, with the curious distinction, however, that when the legislature, on joint ballot, elect a Regent they always select a saint, and when electing a superintendent of public instruction they invariably select a sinner.³⁶

Mr. Ainsworth asserted that he had participated in the election of several regents, and he had never known one to be elected because of "any known or suspected fitness for public-school work." Senator Depew was elected solely because he was a "genial, accomplished and ardent Republican."

³⁵Ibid., pp. 43-44.

³⁶Ibid., p. 44.

Father Sylvester Malone was selected because he was a cultured priest, and because it was thought desirable to have a representative of the Catholic Church on the Board of Regents. Dr. Watson was elected because Senator Conklin told the legislature to elect him.³⁷

Mr. Ainsworth found it a little amusing to hear the regents protesting against transferring the control of the high schools to the department of public instruction for fear of political influence. James R. Parsons, Jr. who was in charge of the high schools under the regents, was a Democrat, originally appointed to the department of public instruction by a Republican, "from which department he was rescued 'like a brand from the burning' and translated to the Regents' office." The deputy superintendent wondered whether Senator Depew, Governor Roosevelt, the secretary of state, the lieutenant-governor, St. Clair McKelway, Whitelaw Reid, Charles E. Fitch, and several others whom he listed had no politics.

Perhaps it is by the divine law of predestination or foreordination, and not by politics that these Regents have managed to secure about all the good offices the Republican party has had to give, during the last twenty-five years. . . .³⁸

Mr. Ainsworth did not care what the official at the

³⁷Ibid., pp. 44-45.

³⁸Ibid., pp. 45-46.

head of the new system would be called, nor how he was selected. He wished the legislature to create an office which would have full authority over public education. The regents might, in line with their historic traditions, supervise the education of doctors, lawyers, chiropodists, veterinarians, and bookkeepers, and spend the voluntary aid the state might provide for private education. The proposed White bill would correlate the kindergarten, the primary school, the grammar school, and the high schools as a single unit.³⁹

C. W. Bardeen, editor of the School Bulletin, was more concise. He listed his views in tabular form of which the following is a summary:

1. The two departments should be consolidated.

2. The Board of Regents should occupy the same position with relation to the state that a board of education did to a city. This might make necessary a change in the constitution of the board but the name and present functions should continue.

3. The board should elect a superintendent for at least a six-year term, with a salary of \$7,000 as a minimum. His powers should not be reduced, and the power of the regents should be limited to his election.

4. The regents should continue to supervise high schools. Their influence had resulted in the improvement of a number of small schools in order to obtain regents' standing.⁴⁰

Melvil Dewey, secretary of the Board of Regents, listed

³⁹Ibid., pp. 46-47.

⁴⁰Ibid., pp. 47-48.

four points on which he believed there was general agreement:

1. The time had come for unification.
2. The educational system should be divorced from politics as much as possible.
3. There should be a board to grant and alter charters and perform acts which could not be trusted to an individual. A "carefully constituted board" between the legislature and the officer in charge of education was needed.
4. There should not be a second board independent of the regents. This would increase the confusion.⁴¹

Mr. Dewey proposed the reform of the Board of Regents, and outlined several suggested ways of accomplishing this purpose. Among the suggestions were retention of the present board, changing of the tenure to a fourteen-year term with retirement at seventy, elimination of all present regents and election of new ones, and establishment of an entirely new board. Mr. Dewey also gave his attention to the matter of election or appointment, listing the various proposals made without expressing any particular opinion. However, continuation of election by the legislature seemed "at least next to best, with the preemption in its favor."⁴²

Mr. Dewey next listed the proposals made for dealing with the department of public instruction:

1. Place the department in the same relation to the university as the departments of college, high school and

⁴¹Ibid., pp. 50-51.

⁴²Ibid., pp. 51-52.

home education.

2. Give the superintendent larger legal powers than the other directors, but make him subject to the ordinances of the regents.

3. Give the superintendent autonomous powers over public education as then constituted, subject to power of the regents to appoint and remove him.

4. Give the superintendent the powers listed in the preceding paragraph and in addition entire autonomy in appointments and salaries.⁴³

Regent Charles E. Fitch of Rochester approved of the editorial in the May issue of the Educational Review, with certain modifications, principally life tenure for regents. He pointed out that sentiment for unification had long existed, but had been chiefly of academic interest, with wide variation in the proposed means by which it was to be accomplished. The failure of the convention of 1894 to arrive at any satisfactory solution was a case in point. He thought that the election by the regents of both the secretary and the superintendent would give the educational system "coherence, dignity, economical management, and freedom from party politics."⁴⁴

He regretted that the regents had turned down the proposal of the superintendent that he be elected by the regents, but given power to supervise the high schools. If that agreement had been reached it was probable that

⁴³Ibid., pp. 52-53.

⁴⁴Ibid., pp. 55-56.

unification would have been accomplished by the 1899 legislature. He believed that election by the regents would be preferable to appointment by the governor. Some governors would make good appointments regardless of political pressure, others would not. The regents might conceivably be influenced by politics but never had been. He thought the number of elective members should be reduced, through death or resignation, to nine. He did not believe they need be educational experts, but rather "as they have been, broad, fair-minded men with general knowledge of educational matters."⁴⁵

Dr. Albert Leonard, editor of the Journal of Pedagogy, believed that all educational institutions of the state from kindergarten to university should be in the hands of a single department headed by a commissioner of education, with clearly defined duties. Since men "like Theodore Roosevelt are not always found in the governor's chair" some means should be found of assuring the election of a person of special fitness for the office of commissioner. The best way would appear to be election by a board, and that might be accomplished by changing the law providing for election of regents. Election by the board would remove the matter from politics.⁴⁶

Charles Z. Lincoln, chairman of the statutory revision commission, outlined the policy of the commission

⁴⁵Ibid., pp. 56-57.

⁴⁶Ibid., pp. 62-64.

in presenting bills to the legislature in 1898 and 1899. He had left the laws relating to the jurisdiction of the two departments virtually untouched, but the legislature did not wish to pass the bill in this form. He pointed out that the regents had some jurisdiction in about five per cent of the eleven thousand districts, with about three per cent of the school population subject to them. He believed the time had come for concentration of jurisdiction.⁴⁷

The senate committee on education proposed by way of solution to abolish the superintendent and the department and establish a state department of education under a commissioner, appointed by the governor with exclusive powers of supervision over public schools. This plan would have had the effect of eliminating the university from public school affairs. Before the legislature adjourned the bill was modified to provide for election of eight more regents representing the judicial districts, for fourteen-year terms. These regents and the governor would have power to elect the commissioner of education. The bill was left in this form at the end of the term.⁴⁸

However since the university was provided for in the constitution, Lincoln continued, probably the easiest way to achieve unification would be to reorganize the board, and

⁴⁷Ibid., pp. 64-65.

⁴⁸Ibid., p. 65.

give it power to supervise all schools. This would involve, undoubtedly, legislating the present board out of office and creating a new one, probably of not over nine members. This board should elect the superintendent or commissioner, who would have the powers formerly held by the superintendent. Such a plan would preserve the university with its historic traditions, and still provide unification of the educational system.⁴⁹ But no plan of consolidation would be adopted unless the regents and the superintendent were willing to surrender their power and jurisdiction and unite on a plan of reorganization.⁵⁰

Superintendent W. H. Maxwell of New York City confined himself largely to stating principles which he believed should underlie any proposed legislation:

1. Removal of state educational officials from politics.
2. Accomplishment of this aim by placing appointment in the hands of the regents, and requiring scholastic and professional qualifications.
3. Limiting the jurisdiction of state officials to the inspection, investigation and classification of institutions, not qualifications of students.
4. Limiting of inspections to one type of state officials.

President William J. Milne of Albany State Normal

⁴⁹Ibid., pp. 66-67.

⁵⁰Ibid., p. 68.

College criticized the White bill for failing to provide a settlement of the points of issue between the two departments. It was not a unification bill, for it merely transferred some schools from one jurisdiction to the other. The conflicts between the departments were not conflicts of personalities but arose instead from the irrational legislation which created the difficulties. The people wished a single department of education instead of the "anomalous duality" which existed, and they wanted the end of political influence in school matters, neither of which was accomplished by the White bill.⁵¹

Dr. Milne believed that the best method of unifying the educational system was to place all control in the hands of the regents, with some possible modifications of the organization of the board. The commissioner of education should be elected by and responsible to the regents.⁵²

Superintendent Charles R. Skinner argued in his usual forcible fashion for a plan of unification which would place under one head all institutions receiving support from the state. He could see no way in which state aid would be endangered if the high schools were placed under the control of the department of public instruction. Such a change would strengthen the school system by relating the high schools

⁵¹Ibid., pp. 70-71.

⁵²Ibid., p. 72.

more closely to the primary and grammar grades.⁵³

Regent T. Guilford Smith of Buffalo suggested that the question of tenure for the regents might be compromised by fixing an age at which regents would become emeritus regents. As a result the board would receive the benefit of the activities of the members and of their counsel in later years.⁵⁴

Commenting on the questions raised by these varying opinions, Dr. Butler, while admitting that the regents were a constitutional body and that unification through them was the most direct way, pointed out that they were subject to many criticisms. He declared that the regents were neither popular nor representative, and charged that they were chosen for political reasons. He further asserted that the regents had a "well-oiled political machinery for deluging the press and the legislature with letters and protests" and that these tactics had caused indignation and resentment. For these reasons the law governing the selection and tenure of the board had to be modified before unification could be accomplished.⁵⁵ The board was too large, and should be reduced in number of elective members as well as by elimination of the ex officio members. The simplest method might be to abolish the present board by law and start again from the

⁵³Ibid., pp. 73-74.

⁵⁴Ibid., p. 75.

⁵⁵Ibid., p. 77.

ground up.⁵⁶

Dr. Butler proposed that a department of education be established, combining the university and the department. The university should continue to have control of higher and professional education, and non-tax-supported secondary schools, while the department would control all publicly supported schools. He further proposed that eight new regents be appointed by the governor and Senate, for fourteen-year terms, with retirement at seventy. The existing regents would not be replaced as their positions became vacant. These new "regents of education" would elect the superintendent, who would be granted all the powers of the earlier office, with new powers granted by the law. Such a plan would result in unification and draw a plain line between the two parts of the educational system.⁵⁷

Reviewing educational legislation in an address to the regents convocation on June 26, 1899, Regent Whitelaw Reid pleaded for the extension of education in tune with the times:

The true educational reformer is not he who would improve our system by narrowing it--by making war on the high schools, academies or colleges . . . or by holding them up to public distrust as aristocratic . . . but would widen the system to meet the more varied wants of the . . . broader life the twentieth century is soon to

⁵⁶Ibid., p. 78.

⁵⁷Ibid., pp. 78-79.

usher in. . . .⁵⁸

Regent Reid declared that the right of the people was an educational organization which would give the best promise of "wise, economical and efficient administration." He declared that he had no quarrel with the existing system and had taken no part in the agitation for change, nor so far as he knew, had any member of the Board of Regents, but the talk of change was in the air.⁵⁹ He referred to the report of the education committee of the 1894 constitutional convention, which deplored the lack of connection between the common schools and the regents-supervised academies, and declared that unification would be to the advantage of all.⁶⁰ He agreed that the wise course lay in the direction of a unified system, but asked whether the result should be accomplished by

leveling down the whole system and intrusting it to a superintendent of common schools or by leveling up and intrusting it to a board which should merely add the selection on purely non-partizan /sic/ and educational grounds of a superintendent of common schools to its old and comprehensive duties. . . .⁶¹

⁵⁸ New York (State) University, Proceedings of the University Convocation of 1899, Regents Bulletin No. 48, (Albany: University of the State of New York), p. 223.

⁵⁹ Ibid., p. 223.

⁶⁰ Ibid., pp. 223-224.

⁶¹ Ibid., p. 224.

He asserted that the Board of Regents had no interested motive in the controversy; it was the one body which served the state entirely without pay, giving its services as a matter of public duty. The real question was whether the public, if it appreciated this service, wanted the regents to continue to exercise their powers.

The true question to be settled, Regent Reid declared, was the natural method of accomplishing unification, if that was what the state wanted. If this natural method was not to be followed, why not? He argued the propriety of entrusting the state educational system entirely to the regents, on the grounds that the board was the first and oldest state body appointed for educational purposes, and that the common school system had sprung from the academies, colleges and universities.⁶²

Only two reasons, Mr. Reid declared, could be asserted for "leveling down" the system to the control of the superintendent. One was the frank avowal of the desirability of putting the educational system in partisan control. The other reason was the asserted necessity for putting the educational system in the hands of an officer directly responsible to the people, or to the legislature.⁶³ Three results would follow the placing of educational control in the hands of an elected official: direct political control,

⁶²Ibid., p. 226.

⁶³Ibid., p. 227.

ultimate sectarian control, and consequent deterioration of the reputation of the state system.

Referring to the criticisms of the Board of Regents, Reid stated that the first argument was that there were too many ex officio "ornamental" members, without whom the board would be more efficient. He replied that the board should have the benefit of the practical good which would come from consulting with the governor and other state officials. Another argument declared that the board was too large. If the board was not too large for a population of a million or less, is it now too large for a state with seven or eight times as many people? As to method of appointment, he did not believe that appointment by the governor would necessarily be better than the present method.⁶⁴ Reorganization, said its proponents, would get rid of the old men on the board. The principal argument of those who complained of the regents was not lack of activity but too much activity.⁶⁵

The needless abandonment of machinery that works well for an untried arrangement is not necessarily reform. . . . Tearing up a system that has been working well for a century is not the unification of the system.⁶⁶

The members were personally indifferent to the decision that might be made, but they believed that the regents were never

⁶⁴Ibid., p. 229.

⁶⁵Ibid., p. 230.

⁶⁶Ibid., p. 230.

so active, or had ever exerted so much a guiding and restraining hand on educational activities as now.⁶⁷

On Tuesday, June 27, 1899, the afternoon session of the convocation was devoted to a discussion of the issue of unification.⁶⁸

Vice-Chancellor W. C. Doane emphasized that two points should be kept in mind: consideration for the opinions of others, and the fact that the end to be achieved rather than the method by which it was reached, was the important factor. He reminded the convocation that no regent present had the right to speak for the board. He had become tired, however, of the implication that the regents were "fossilized," and "creatures of the Legislature." So far as he was concerned he was nobody's creature but Almighty God's.⁶⁹

Superintendent Skinner voiced his disappointment at finding that no representative of the Board of Regents was to appear in the discussion. He asserted that the existing educational situation was "awkward, irritating and unnecessary."⁷⁰

We deceive ourselves if we imagine there is no friction in our educational system. There is friction, and continued friction means a breaking down of the machinery

⁶⁷Ibid., p. 231.

⁶⁸Ibid., pp. 268-318.

⁶⁹Ibid., pp. 268-269.

⁷⁰Ibid., p. 270.

We all want unification. If we can agree upon an acceptable definition and then unite in securing such unification it will be a happy day for every educational worker in this state. . . . The question is not whether a particular department shall control a particular school, but one of legitimate jurisdiction and proper government. What is unification? . . . unification of a state school system means that all public schools maintained in whole or in part by public taxation should be placed under one administrative head. Locate that head where you will, but make one head. . . . It matters little by what name the chief educational officer of the state is known; . . . or . . . whether he be elected by the legislature, appointed by the governor, or chosen by the people; but the great advantage to be gained is the establishment of the principle of unification. . . .⁷¹

Superintendent Skinner declared that the regents' idea of simply making the state superintendent elective by the regents would not give unification, but would mean absorption, and would make the superintendent subservient to eminent men without practical knowledge of the needs of the schools. He reviewed the legal provisions by which the state department exercised authority over the high schools as well as the common schools, and declared that there was no reason why the high schools should not be under the exclusive jurisdiction of the superintendent.⁷² The high schools, according to Skinner, were not a separate part of the educational system, but a part of the system itself, established on the initiative of the people for the benefit of all children. He would favor the enlargement of the scope of the high school,

⁷¹Ibid., pp. 271-272.

⁷²Ibid., pp. 272-273.

making education in the nearest one free to all.⁷³

Mr. Skinner referred to a pamphlet circulated through the state by Regent Pliny T. Sexton, containing a number of editorials on the subject of unification and legislation, which he asserted to be "unworthy of dignified journalism in the discussion of a public question." With the exception of certain newspaper quotations, all but two of the editorials were from papers edited by members of the Board of Regents. He called particular attention to an editorial from the Brooklyn Eagle, edited by Regent McKelway, which represented the department of public instruction

as a political institution conducted on political principles and controlled by professional politicians, seeking extension of power for themselves and actuated only by hope of personal gain.⁷⁴

He stated that he had brought up the matter of the editorials in the April 24 meeting of the Board of Regents, and as a result McKelway had apologized for them and promised to make reparation, which had not been done. Sexton had apologized for his part in circulating the pamphlet, but had continued to do so.⁷⁵

Unification, according to Skinner, would accomplish four results:

⁷³Ibid., pp. 274-275.

⁷⁴Ibid., p. 275.

⁷⁵Ibid., p. 275.

1. It will place under the absolute control of one department all schools for whose support the state holds itself responsible.

2. It will simplify administration, centralize responsibility, lessen expenses, prevent double supervision, inspection and apportionment.

3. It will forever settle the question that the high schools are to be considered as apart from the public school system of the state. . . .

4. It will settle definitely, at least, the boundaries of the legitimate work of the educational departments of the state, determine their powers and preclude encroachment by either on the province ⁷⁶ of the other, and thus secure . . . harmony and efficiency.

By letter from Andrew S. Draper, formerly superintendent of public instruction and then president of the University of Illinois, came a statement notable for its defense of the regents as well as its moderate tone in the face of the argument raging within the state circles. In behalf of the regents President Draper said in part:

If I had not proved it by what I have said and done in years gone, it would be idle to say now that I have boundless respect for the Regents of the University. We have no other state educational organization in America . . . whose origin carries us back 115 years. Its members have not ordinarily been professional educators; it was not desirable that they should be, but they have been foremost citizens of the state and deeply interested in the culture of her people. The work of this board for higher education is neither equaled nor paralleled in the country. Its work is admired and is being copied by the friends of advanced learning throughout the land. It is well for New York educationists to revere such an organization, and add to and improve its work to the end that it may be at all times in the front of educational

⁷⁶Ibid., pp. 277-278.

progress and freshly adapted to the needs of higher learning of an imperial state.⁷⁷

However, Dr. Draper declared, he believed it would have been a mistake if elementary education had been placed under the Board of Regents. This was seen when the state established a department under a superintendent to supervise the common schools.

The administration of the affairs of more than 11,000 school districts . . . can only be efficient through authority which can settle disputes speedily, inexpensively and conclusively. . . . Under this plan there has grown a vast system of elementary schools of marked and very uniform excellence, and it is there to be revered, upheld and improved.⁷⁸

President Draper declared that he had never felt strongly as many had that the dual system was particularly harmful to the educational interests of the state. An apparently almost unanimous desire for the unification of the departments constituted a strong argument for the combination. This was also desirable to avoid possible political influence as well as to eliminate friction. Draper referred to his own experience in having been eliminated as superintendent by the legislature on political grounds. As a result, he had advised the education committee of the 1894 convention to vest the power to appoint the superintendent in the Board

⁷⁷Ibid., pp. 278-279.

⁷⁸Ibid., p. 279.

of Regents, but leave his powers as they were. If appointment in this manner would eliminate friction as well as political influence, it would be a desirable move.⁷⁹ He declared that he was opposed to any impairment of the powers of the superintendent, who must have freedom, independence and permanence of tenure as long as he merited it by "a judicious and fearless and aggressive exercise of the powers delegated to him. . . ."⁸⁰

President William J. Milne of the Albany normal college stated that unification was no new idea, that it had been agitated years ago, and on one occasion action of the legislature abolishing the Board of Regents would have accomplished that end, but Chancellor Pruyn had used his influence to prevent the governor from signing the bill.⁸¹ He believed that as the two departments became larger and more influential the conflict between them would become greater and the evils would increase.⁸²

President Milne believed that in addition to the two methods of unification which had been proposed, there was a third method--unification under a board of regents, not necessarily the present one, which should elect a general administrative officer to take charge of all educational

⁷⁹Ibid., pp. 280-281.

⁸⁰Ibid., p. 281.

⁸¹Ibid., p. 282.

⁸²Ibid., p. 282.

affairs. As to the qualifications to be expected, the commissioner should be a

man of liberal education; . . . a broad general scholar . . . thoroughly acquainted with the problems . . . foremost in educational circles; . . . a practical educator, not a theorist, but . . . a man whom the public would respect. . . .⁸³

President James M. Taylor of Vassar College expressed his surprise that no one up to that moment had suggested the appointment of a commission by the legislature to make a thoroughgoing investigation of the matter. He believed that the line that must be followed was unification under the regents, since the university was safeguarded by the constitution. It seemed to him that the appointment of the superintendent for a long term, possibly life tenure, should be placed in the hands of the regents, so that he might be, as a result of the long tenure, free from interference after election. However, a certain measure of reorganization should be accomplished; for example, it seemed to him absurd that the law barred from the Board of Regents men who were in closest touch with the colleges and schools.⁸⁴

Principal D. C. Farr of Glens Falls Academy did not agree with the superintendent's expression of surprise that the regents were not represented in the discussion. He

⁸³Ibid., pp. 285-286.

⁸⁴Ibid., pp. 292-294.

thought that a body of men who had labored for over a century in behalf of education needed no representation. The regents had made the secondary schools of the state their monument, and the peers of any in the world. He was not surprised at the failure of the bill introduced in the legislature at the last session. The people evidently recognized that it was unwise to entrust the educational interests of the state to a department that might be changed by political means every three years. No one had given much consideration to a proposal to reduce the number of regents and deprive them of their powers. The people were not so ungrateful for the service of the regents to the cause of education in the state.⁸⁵

Practical school men wanted unification to eliminate the confusion resulting from failure or refusal of one department to recognize credits for work done under the jurisdiction of the other. The school men of the state wanted a creditable system which would be a unit throughout. All the schools were part of the same system, but the secondary schools should remain under that body which was the parent of the state school system.⁸⁶

Dean James E. Russell of Teachers' College, Columbia University, offered two principal points for consideration.

⁸⁵Ibid., pp. 295-296.

⁸⁶Ibid., pp. 296-297.

First, because the secondary schools, for the supervision of which the university was particularly organized, were originally intended for college preparation, the idea had got abroad that the university stood for aristocracy. That, he believed, was an unfortunate error, for the regents were representative men and their activities in behalf of education testified to their interest in general education. However, life tenure of the regents tended to perpetuate the idea of aristocracy.⁸⁷ The possibility of frequent change and resulting political influence through the department of public instruction made the university the better basis for future development.⁸⁸

His second point concerned the teachers.

So long as that greatest power within the profession, the power of certification of teachers and the testing of their work is granted to a department that changes, that may change or that is subject at any rate to influence for political reasons,⁸⁹ just so long is the position which we hold precarious.

The profession of law would not accept certification from a non-professional board; medicine and dentistry had their boards for examining candidates.

If it is expedient that those who are to look after the welfare of our molars should have a special examining

⁸⁷Ibid., pp. 297-298.

⁸⁸Ibid., p. 298.

⁸⁹Ibid., pp. 298-299.

board, . . . those who are to look after the spiritual and intellectual welfare of our children should at least have such consideration.⁹⁰

Referring to President Taylor's suggestion of a commission to investigate the matter of unification, Dean Russell proposed that since it was then too late to have a commission from the legislature ready to report at the next session, it might be desirable for the two departments, if they were as disinterested as they professed to be, to join in appointing a commission to investigate the matter of eliminating the friction between them. He suggested that each department appoint five persons, these ten to select another, perhaps as chairman; funds might well be available from a popular subscription taken among the teachers of the state.⁹¹

C. W. Bardeen lauded the work done by the two departments in their respective fields, and pointed out that the election of the superintendent of public instruction by the Board of Regents, although desirable, would not remedy out of hand all the evils existing, such as dual inspection and examination.⁹² He recalled the efforts he made to urge the re-election of Superintendent Draper, which hinged upon the vote of one Democratic assemblyman, a former schoolman. He

⁹⁰Ibid., p. 299.

⁹¹Ibid., pp. 299-300.

⁹²Ibid., p. 303.

recalled also the statement of an assemblyman which indicated that the recent re-election of Superintendent Skinner could likewise have been changed by one vote.

When it is in the hands of a single politician . . . to turn out of office a superintendent whose administration is giving satisfaction and who has the confidence of the teachers of the state, it is time some other method was substituted. . . .⁹³

He urged further that no change be made in the Board of Regents. The board as then constituted consisted of distinguished men, "respectable and reliable." He did not agree with the suggestion of President Taylor of Vassar that educators be added to the Board of Regents.

That shows he has never been a superintendent, for of all unhappy elements on a board of education, the retired schoolmaster is most dreaded by those who have had experience.⁹⁴

Deputy Superintendent Ainsworth then launched a vigorous attack on the opponents of unification. In the course of his discussion he attacked Regent McKelway of Brooklyn for having said that the present talk of unification arose from hungry politicians.⁹⁵ He castigated Secretary Dewey because the last regents' report criticized the work of normal schools and stated that the trustees' reports from common school districts were full of useless information. He charged that

⁹³Ibid., p. 304.

⁹⁴Ibid., p. 305.

⁹⁵Ibid., p. 313.

the occasion for the demand for unification was the constant interference of the Board of Regents with the work of the department of public instruction.⁹⁶

As long as you divide the educational work of the state at any artificial point, .⁹⁷ the disturbance and discontent still will remain.

Regent St. Clair McKelway concluded the debate by offering a resolution:

Resolved, that it is the judgment of this convocation that the superintendent of public instruction should be elected by the regents of the University.

Resolved, that this general statement be made known to the next legislature with the suggestion that in carrying it into effect the details of legislation, dealing with the existing departments, might well be recommended by a commission to be appointed by the governor and to include representatives from each of the two departments and from the educational staff of the state.⁹⁸

On motion of Principal H. P. Warren of Albany Academy the statement of the sentiment of the convocation, contained in the McKelway resolution, was referred to a committee of five, directed to report at the beginning of the session the following morning. The vice-chancellor, presiding, appointed to the committee Principal Warren, President Milne, Deputy Superintendent Ainsworth, Dean Russell, and Superintendent

⁹⁶Ibid., p. 314.

⁹⁷Ibid., p. 315.

⁹⁸Ibid., p. 316.

Charles T. Andrews of Seneca Falls.⁹⁹

At the opening of the session on Wednesday morning, June 28, Principal Warren on behalf of the committee presented the following resolution as the unanimous report of the committee:

Resolved, that this convocation request the governor to name an honorary commission representative of the various educational interests of the state, which shall consider ways and means of unifying the present educational systems and give such assistance as the statutory revision commission may desire in the preparation of a bill to be submitted to the legislature at the opening of the next session.¹⁰⁰

In accordance with the resolution of the convocation Governor Roosevelt appointed as members of the educational unification commission Frederick W. Hollis, Daniel H. McMillan, Judge Joseph F. Daly, William Kernan, Robert F. Wilkinson, Secretary Melvil Dewey, and Deputy Superintendent Danforth E. Ainsworth.¹⁰¹

A slight difference of opinion may be noted in the comments available on the appointment of the commission. Dr. Butler described the appointments editorially as "admirable" and said that

New Yorkers will recognize in these names a thoroly /sic/ strong and representative body of men, skilled in

⁹⁹Ibid., p. 213.

¹⁰⁰Ibid., pp. 213-214.

¹⁰¹New York (State), Messages from the Governors, ed. by Charles Z. Lincoln (Albany: J. B. Lyon Co., 1909), X, p. 114.

framing and executing important public policies.¹⁰²

An editorial in the Ithaca Daily News pointed out that the convocation resolution had called for appointment of a commission representative of the various educational interests of the state. The commission appointed by Governor Roosevelt consisted of five lawyers, plus the two representatives of the warring educational factions.¹⁰³ Mr. Bardeen, however, characterized the appointments as "a wise and happy choice."¹⁰⁴

Remarks by Superintendent Skinner at the summer meeting of the State Teachers' Association at Utica were additional evidence of the uncompromising attitude of the department. In the course of an address on school progress Skinner attacked the regents, especially Sexton, McKelway and Reid, and charged the speakers at the university convocation had been packed in favor of the regents. Reporting the remarks, Bardeen stated that before the convocation opened, some regents expressed an opposite opinion to him, thinking the speakers had been packed against them. Skinner asserted that the election of the superintendent by the regents would be unwise, undemocratic, unpatriotic and unrepblican, but had a few minutes before contradicted himself

¹⁰²"Educational Unification in New York" (editorial), Educational Review, XVIII (Dec., 1899), p. 517.

¹⁰³"State Educational Matters" (editorial), School Bulletin, XXVI (Jan., 1900), p. 103.

¹⁰⁴"The Educational Unification Commission" (editorial), School Bulletin, XXVI (Nov., 1899), p. 41.

by proposing that the superintendent be so elected, and that the regents on their side give up the supervision of the high schools.¹⁰⁵ During the course of his remarks Skinner said rather sarcastically that any regent would consider it a punishment to have to take one of their own examinations. Bardeen added that a principal sitting near him had remarked that if Skinner had to take one of his own examinations in drawing he would find a new cure for obesity. He commented further that Skinner's remarks had created a bad impression.¹⁰⁶

In a later issue of his magazine Bardeen pointed out that instead of the convocation program being packed for the regents, Skinner had been allowed to make the opening speech and his deputy, Ainsworth, the closing remarks.¹⁰⁷

The educational unification commission held its first meeting in Albany on November 27, with all members except McMillan present. Holls was named as chairman. Present at the meeting by invitation were Superintendent Maxwell of New York City, President Milne of Albany state normal, Principal Boynton of Ithaca high school, Principal Goodrich of Utica high school, President Taylor of Vassar, and Bardeen.¹⁰⁸

¹⁰⁵"Shall the Superintendent of Public Instruction be elected by the Regents?" (editorial), School Bulletin, XXV (July, 1899), p. 230.

¹⁰⁶Ibid., p. 230.

¹⁰⁷"Superintendent Skinner and Unification" (editorial), School Bulletin, XXV (Aug., 1899), p. 251.

¹⁰⁸"The Educational Commission" (editorial), School Bulletin, XXVI (Dec., 1899), p. 59.

Dr. Milne told the commission that sentiment for unification was almost universal, and that a new law should be framed with reference to principles, not individuals. He proposed the election of a commissioner of education by the Board of Regents, to assume the powers of the superintendent.¹⁰⁹ Superintendent Maxwell agreed on the need of unity, but proposed conferring additional powers on the chancellor instead of creating a new officer.¹¹⁰ Principal Boynton urged that control over the state department of public instruction should be given to the regents, and he approved making the chancellor the executive officer. Bardeen agreed with the latter idea, urging change by evolution, not revolution. He would make no change in the board, in view of its honorable existence for over a century. He was doubtful if a better system could be devised, and felt that the life tenure of the regents ruled out political pressure.¹¹¹

Early in December the legislative committee of the Associated Academic Principals met in Albany and appointed Principals D. C. Farr of Glens Falls and O. D. Robinson of Albany to represent them before the unification commission.¹¹²

A week later, on December 14, a special unification committee of the Board of Regents adopted a "simple and

¹⁰⁹Ibid., p. 59.

¹¹⁰Ibid., p. 59.

¹¹¹Ibid., p. 60.

¹¹²"Shall New York Schools be made a Political Machine?" (editorial), School Bulletin, XXVI (Dec., 1899), p. 84.

excellent plan" to unify the educational system with the chancellor, elected by and responsible to them, as the chief executive officer. Present as members of the committee were Chancellor Anson J. Upson, Vice-Chancellor William C. Doane, Whitelaw Reid (as proxy for Chauncey Depew as well as a member in his own right), St. Clair McKelway and Pliny T. Sexton. The committee decided to recommend their plan to the governor's commission, and drew up a statement which was presented to the commission later that evening.¹¹³

The regents' committee expressed its approval of the commission's reported intention of placing the educational system under the board, and especially commended the idea of making the chancellor the head of the proposed system. Such an arrangement would attract the notice of the best talent in education. They deprecated any needless change in the board or in the powers of the department. They felt that unification was supported by clear sentiment throughout the state. The plan which they referred to, they understood, had been approved by Mr. Ainsworth. It could be put into effect at once with only three changes each in the consolidated school law and in the university law.¹¹⁴ The committee implemented its proposal with two draft bills making the necessary changes in the laws.¹¹⁵

¹¹³New York (State) University, Minutes of the Regents of the University, 1899 (Albany: University of the State of New York), pp. 553-554.

¹¹⁴Ibid., pp. 554-555.

¹¹⁵Ibid., pp. 555-556.

Mr. McKelway urged the adoption of the plan, for it would accomplish unification in the simplest way on the line of least resistance. It was a conservative plan and one the regents were prepared to defend. Principal Farr, on behalf of the state principals, supported the regents, maintaining that their life tenure kept them out of politics, and that prejudices against them dated back many years, since the board had rendered invaluable service to education for the past fifteen years. He protested against combining the high schools and elementary schools in one department, for "we believe that the inherent differences in the nature and character of such schools make their union . . . an impossibility."¹¹⁶

The report of the regents' special committee met with the approval of McKelway's Brooklyn Daily Eagle, as might be expected, which on the following day declared editorially that "The way to unify is to unify." The commission might not accept the plan, but the legislature would have to respect public opinion or give up the idea of unification.

No balance of selfishness in the legislature can be struck to spoliage education in the name of unification. That is an interest from which rapacity must keep its hands removed.¹¹⁷

¹¹⁶"Shall New York Schools be made a Political Machine?" (editorial), School Bulletin, XXVI (Dec. 19, 1899), p. 84.

¹¹⁷"The Way to Unify is to Unify" (editorial), cited in School Bulletin, XXVI (Dec. 19, 1899), pp. 84-85.

The New York Mail and Express referred to the "lucid report" of the regents' committee and described their plan as simple and effective. The report well illustrated "the difference between expert knowledge and vague theorizing."¹¹⁸

Almost immediately there was evidence that the unification commission had not given serious consideration to the report of the regents' special committee. On December 16 the New York Tribune reported that the commission had sent to Governor Roosevelt a plan said to have been worked out by Ainsworth, which had met with the approval of Holls, McMillan and Wilkinson.¹¹⁹

The substance of the commission report is given by the committee on unification of the Board of Regents and in its own report to the legislature. The commissioners proposed to establish a department of education, consisting of the university and the department of public instruction, headed by an executive official called the chancellor of the university. He was to exercise all the executive powers then vested in the superintendent and the Board of Regents. The university was to be "continued as the legislative head of the department." The lieutenant-governor, secretary of state and superintendent of public instruction were removed as ex officio regents, leaving only the governor in that capacity.

¹¹⁸"Educational Unification" (editorial), cited in School Bulletin, XXVI (Dec. 19, 1899), p. 85.

¹¹⁹"Report on School Unification" (editorial), cited in School Bulletin, XXVI (Dec. 19, 1899), p. 85.

On reaching the age of seventy, elective regents would become honorary regents without the privilege of voting. The number of regents was fixed at fifteen, the number to be reduced by not filling vacancies. Instead of being elected by the two houses of the legislature, regents would be appointed by the governor with the approval of the Senate, and the same method would be used to elect the first chancellor. The regents would elect succeeding chancellors. The proposal called for five bureaus to be established: public instruction, higher education, home education, law, and administration and finance, each headed by a director appointed and removable by the chancellor. Bureau heads would select their subordinates under the civil service law. The superintendent would be continued as director of the bureau of public instruction until the end of his elective term.¹²⁰

While expressing a feeling that the details of organization might well have been left to the direction of the regents, the committee felt that there were other aspects of the proposal more worthy of comment. The regents felt that the opening statements of the commission's plan gave support to the principles that unification was desirable, that it should preferably be accomplished through the regents with the chancellor as head of the system, and that it was desirable to keep the system free from "the influence of partisan

¹²⁰Minutes of the Regents, 1899, p. 557.

politics."¹²¹

However, the committee felt that the commission had been led into one "radical error," found in the proposal by which the governor would select the first chancellor. They could see no reason for giving such a power to the governor; they felt that the commissioners would realize that "the example once set of thus making chancellors would likely be imitated," and there was grave danger that the "similarly appointed successors would owe their selection to willingness to comply with the demands of political managers." Avoidance of such danger should be a prime consideration in any plan for unification.¹²²

The commissioners' proposal that the regents of the University elect the chancellors, after the first one, concedes the fitness of the regents for such a duty, which may be regarded as their service of greatest value to the public. The selection of capable, non-partizan /sic/ chancellors cannot be expected uniformly from other than just such a non-partizan board.¹²³

The regents' committee further doubted the wisdom of naming a fixed term for the chancellors, or of giving them such unlimited power to name their subordinates. The duties of the office should be executive, and the regents should, preferably, be the repository of the power to govern the system.

¹²¹Ibid., pp. 557-558.

¹²²Ibid., p. 558.

¹²³Ibid., p. 559.

No one man's judgment or fidelity may safely be relied upon as to justify giving him anything like autocratic power over interests of such magnitude. The record of the regents should dispel apprehensions of their improper exercise of power. They assuredly can have no selfish desire to increase their uncompensated duties.¹²⁴

The regents' committee then offered resolutions affirming the interest of the board in the preservation of the educational interests of the state, and in the need to avoid political interference, which could be accomplished only by placing control with the regents. They also, said the resolutions, cordially accepted the avowed purposes of the commissioners to establish a "benign and non-partizan unification," and urged further consideration of the plan which had been submitted to the commission on December 14, or such modification of it as may be desirable. The resolutions further expressed the feeling of the board that it was unwise to change the method of electing the members. The resolutions were signed by a majority of the committee, Chancellor Upson, Reid, McKelway, and Sexton.¹²⁵

At the regents' meeting on the following day, December 21, 1899, the report and resolutions were debated. Martin I. Townsend offered a resolution urging the continued election of the members by the legislature, which was accepted and added to the report. Superintendent Skinner made a speech in which he accused the regents of being

¹²⁴Ibid., p. 559.

¹²⁵Ibid., pp. 559-560.

unwilling to concede any dignities or powers in the interest of unification.¹²⁶

Secretary Dewey repeated an offer he had made the day before to resign, and presented a written resignation, stating his wish to devote full time to the library and home departments. He said further that he believed that a vacancy in the office of secretary might be a factor in solving the question of unification. He was not offering his resignation simply to have it recorded and declined.¹²⁷

In the subsequent debate Dewey said that he agreed with Skinner that more harm was being done to education by "the heated discussion, misunderstandings and misrepresentations now so rife" than by friction between the departments. He was prepared to make any personal sacrifice to secure harmony and peace among the educational workers of the state, and was more than willing to withdraw his own personality from the discussion. Dewey specifically denied rumors that he had fomented the discussion about unification so that his own power might be extended over the common schools. He had always had a profound respect for the common school field without any desire to be connected with it. He had chosen library work and home education as his career twenty-seven years ago.¹²⁸

¹²⁶Ibid., p. 560.

¹²⁷Ibid., pp. 560-561.

¹²⁸Ibid., pp. 561-563.

Resolutions offered by Mr. Beach asserting it to be the sense of the board that the duties of the departments could best be carried out separately, and deprecating any legislation consolidating them, were voted down. Vice-Chancellor Doane, as the minority of the regents' special committee, then moved substitution of a set of resolutions which he had drawn up. These proposals were lost by a vote of two to fourteen.¹²⁹

The board then voted separately on the three resolutions. The first, urging unification under the university, was adopted eleven to five. The second, urging the commission to consider favorably the plan of the regents' committee, was approved eleven to four. The third, to continue election of the board by the legislature, was accepted thirteen to three. On all of these expressions Skinner, Vice-Chancellor Doane, and Regent Beach voted against the resolutions.¹³⁰ The regents further voted to continue their special committee. Later in the session they accepted with suitable expressions of regret the resignation of Dewey.¹³¹

The report of the commission's proposals gave rise to a variety of expressions in the press. McKelway's Brooklyn Daily Eagle declared that the proposed method could be counted on to secure political orthodoxy in the chancellor.

¹²⁹Ibid., pp. 563-564.

¹³⁰Ibid., pp. 564-565.

¹³¹Ibid., pp. 565-566.

Referring to the transfer of many of the regents' powers to the proposed bureaus, the Daily Eagle said:

The censure passed on the board, the degradation to which it is subjected, the humiliation put upon it, are evident by any comparison of its present powers with the shorn and shabby remnant which the plan would give it.¹³²

The New York Tribune commented that the commission had done a commendable thing in proposing unification under the chancellor, but the best way to "stuff the administration of the schools full of politics" would be to allow the governor to name the chancellor, for there was no way to assure that the method of the initial appointment would not be followed after the eight years passed.

It is far easier to bestow authority than to recover it, and if the power to appoint the Chancellor, with the consent of the Senate, were given to the Governor at the outset, it is pretty safe to assume that the politicians would never let it be put beyond their reach.¹³³

Further trenchant comment came from the New York Times:

To create a ten-thousand-dollar office and then put it absolutely outside of politics in an undertaking beyond the powers of any save the most resolute and celestial-minded of men. . . . The act embodying these suggestions should be entitled "An Act to Reduce the Board of Regents to a State of Innocuous Desuetude."¹³⁴

¹³²"Educational Unification" (editorial), cited in School Bulletin, XXVI (Jan., 1900), pp. 102-103.

¹³³"The Wrong Way to Unify" (editorial), cited in School Bulletin, XXVI (Jan., 1900), pp. 100-101.

¹³⁴"An Educational Plum" (editorial), cited in School Bulletin, XXVI (Jan., 1900), p. 101.

Referring to the commission's proposals to retire members of the Board of Regents at seventy, and allow the governor to nominate the chancellor, the Times editorial continued:

Oily Gammon outdone! We put the old fogies on a back seat, where they will not be bothered with the "duty or responsibility of a vote," and we strip the rest of the board of all real power for eight years. Then we say, "The power and dignity of the board of regents have been increased." If the board of regents is unworthy of confidence, why not frankly say so and provide for its reorganization?¹³⁵

Indicative of the temper of the dispute is a report of remarks made by Ainsworth whose intemperate language has been mentioned previously. As reported by the Syracuse Evening Telegram, Ainsworth launched an "unmerciful attack" on the Board of Regents, calling them a lot of old men unable to control the education of the state, and asserting that of the twenty-three members not one of them spent more than a minute and a half of the day at the work of public education. "The board," he continued, "contains lawyers who are superannuated, editors out of positions, and clergymen just about to die." The last remark was the more out of place because Father Sylvester Malone, one of the four members of the board who was over seventy, was actually at that time upon his deathbed, his passing being recorded on another page of the

¹³⁵ Ibid., p. 101.

publication which reported Ainsworth's remarks.¹³⁶

A statement from Melvil Dewey to Governor Roosevelt expressed the minority opinion of the unification commission. Dewey stated that he had accepted appointment to the commission with the status of a private citizen so that he might point out any issues upon which he disagreed. In addition to a repetition of the argument that the regents should appoint the chancellor, Dewey declared that the salary proposed for the head of the system was too high, for \$7,000 was high enough for the type of man who would accept the position under the commission's proposals. He pointed out further that criticism had been leveled at the dual system of control as being too expensive, but the commission plan proposed five departments instead of two. Still further, in establishing a bureau of public instruction the plan failed to recognize the important distinction between elementary and secondary education. For this and other reasons, the dangers from the proposal were greater than any good that could come from it.¹³⁷

Indication of the educational situation which the proponents of unification hoped to eliminate is found in a summary of the points at which duplication between the two departments occurred. (1) There was duplication of reports to the superintendent and the regents by the high schools.

¹³⁶"The Syracuse Meetings" (editorial), cited in School Bulletin, XXVI (Jan., 1900), p. 92.

¹³⁷"Melvil Dewey's Letter" (editorial), School Bulletin, XXVI (Feb., 1900), pp. 117-118.

(2) There was duplication of apportionment of state funds. The department of public instruction apportioned \$100 for every teacher employed regularly in high school, but this money could be spent only on elementary grades. The regents also distributed the same amount for each high school teacher.

(3) Inspection was duplicated. Regents' inspectors visited high schools to check equipment and confer on courses. Training class inspectors for the department of public instruction visited all academies and high schools having teachers' training classes, and all academies to pass on courses of study, under a law of 1895. No agreement had ever been made by which one department accepted the inspection made by the other.¹³⁸

A communication to Bardeen from the principal of Sherman Collegiate Institute at Moriah, N. Y., called attention to the fact that requirements by the department for teachers' examinations were so different from regents' requisites in the same subject that two classes frequently had to be maintained. For example, Principal Brown stated that the regents' examination in bookkeeping was based upon double-entry while the department examination was based on single-entry, and duplicate classes also had to be maintained in English, physics and drawing.¹³⁹

¹³⁸"Need there be Friction between the Two Departments?" (editorial), School Bulletin, XXVI (Mar., 1900), pp. 144-145.

¹³⁹"Is Unification Desirable?" (editorial), School Bulletin, XXVI (Apr., 1900), p. 159.

In his annual message in January, 1900, Governor Roosevelt gave some attention to the educational question. He referred to the university as "an institution peculiar to this commonwealth and one now venerable with its one hundred and sixteen years of history," and praised its influence on the standards of education. He also mentioned the "vast importance" of the work of the department. The problem concerning the work of the two departments was not whether unification was desirable, but by what means it could be attained.¹⁴⁰ Governor Roosevelt then referred to the appointment of the special commission and the plan of unification which they had adopted, praising it as "simple, effective, and wholly free from political or partisan considerations."¹⁴¹

Mr. Skinner's annual report for 1900 was a comprehensive survey of the entire problem of friction and its causes, and unification as a means of eliminating it. Since we have given a rather complete history of the movement during recent years, there is little reason here to give more attention to the report than to indicate those points at which Skinner lists additional arguments in the controversy.

Early in his document Skinner charged the Board of Regents with encroaching on the legal preserves of the department in licensing teachers. He quoted action of the regents taken in December, 1898, requiring institutions

¹⁴⁰ Messages from the Governors, X, pp. 113-114.

¹⁴¹ Ibid., pp. 114-115.

registered in the university to employ as principal or assistant only those graduated from a college or university registered by the university, with an additional year's training or three years' experience.¹⁴² This he declared to be contrary to provisions of the consolidated school law defining a qualified teacher as one possessing a valid certificate from the superintendent or from a school commissioner.¹⁴³

Mr. Skinner related in some detail the story which we have told in this chapter of the regents' plan for unification, the discussion at the convocation and the appointment and report of the governor's commission. He declared that there probably had never been "so much personal abuse, vilification and impeachment of motives" injected into the discussion of an important educational question, and referred to "calumny and abuse beneath the dignity of any person holding public office."¹⁴⁴ He charged further that "politics of a most disgraceful character" had entered into the discussion, consisting largely of "personal vituperation, untruthful statements and false issues." During all this, Skinner declared, he had never deviated from his position that a clear line must be drawn between the two departments and their work; if that could not be done he was for any one of the three

¹⁴²New York (State), "Report of the Superintendent of Public Instruction, 1900," Assembly Document No. 84 (Albany: J.B. Lyon), p. 10.

¹⁴³Ibid., p. 12.

¹⁴⁴Ibid., p. 23.

measures for unification which had been proposed.¹⁴⁵

Mr. Skinner also charged the Board of Regents with defeating the non-resident tuition bill to prevent any improvement in education save through their department.¹⁴⁶

At the annual convocation of the university in June, 1900, the only apparent reference to the subject of unification appeared in the address of welcome of Chancellor Upson. On a note of triumph Dr. Upson declared:

We are still here. We have not been abolished. We have not been amended out of existence. The University of the State of New York, with all its powers, is still extant. For 38 years, since 1862, this convocation has been held annually in this capitol. Since 1784 . . . the University has blessed the state, and is still here to welcome friends of education. . . .¹⁴⁷

Chancellor Upson referred to the events of recent months and the debates and discussions over the report of the governor's commission, which he declared had finally led

to a peaceful cooperation between the two departments. . . . The incident seems to have been closed with satisfaction to both sides and with benefit to education. . . .¹⁴⁸

¹⁴⁵Ibid., p. 23.

¹⁴⁶Ibid., p. 26. Careful search of the legislative journals for these years fails to reveal any bill which is identifiable as dealing with the question of non-resident tuition. It has been necessary to depend on other sources for the information.

¹⁴⁷New York (State) University, Proceedings of the University Convocation of 1900, Regents Bulletin No. 51 (Albany: University of the State of New York), pp. 166-167.

¹⁴⁸Ibid., p. 168.

Evidence of the improved temper within educational circles is found also in the report of Skinner and in the annual message of Governor Odell. The latter said merely that the state's only concern with the work of the two departments was that it should be accomplished without friction. The aims of the two divisions were distinct but not conflicting. "Between them it is believed an harmonious temper now prevails." There were a few points at which their work was on parallel, though not necessarily identical lines, which furnished no reason for antagonism. Public opinion would censure any person or policy causing "avoidable discord" between them.¹⁴⁹

Mr. Skinner devoted only a little over a page of his annual report to the subject of unification. From this brief statement, in which he referred again to the controversy over licensing of teachers, the following is indicative:

During a portion of the past year educational circles were agitated from center to circumference by a somewhat acrimonious discussion of the various phases of unification. Educational conditions remain unchanged and a reasonable degree of harmony has since prevailed.¹⁵⁰

Still further evidence of a degree of peace is found in the fact that Skinner's reports for 1902 and 1903 were silent on the subject. Nor can any reference to the conflict be found in the columns of Bardeen's journal.

¹⁴⁹Messages from the Governors, X, pp. 226-227.

¹⁵⁰New York (State), "Report of Superintendent of Public Instruction, 1901," Assembly Document No. 67 (Albany: J. B. Lyon), p. 9.

With this note of quiet after a period of intensive controversy this chapter is brought to a close. In the next and final chapter we shall find the debate rising again in 1903, to be brought to an end by the accomplishment of unification.

CHAPTER X

UNIFICATION ACCOMPLISHED

Agitation over unification reappeared publicly in the early months of 1903. Two elements of the former situation were the immediate causes of the revival.

In the legislature there appeared another series of bills to effect some form of revision of educational control. In February Senator E. R. Brown introduced a bill

to organize a State Board of Education in the Board of Regents of the University of the State of New York and to confer upon such board complete jurisdiction of /sic/ the common schools of the State.¹

Later in the month the committee on public education reported the bill with amendments and the recommendation that it be printed as amended and sent back to the committee, which was agreed to. Late in March the bill came forth again from the committee with an identical report and recommendation, and upon being returned to the committee did not reappear.²

Early in March Senator F. C. Stevens presented a bill "to unify the educational system of the State under the supervision of the regents. . . ." Nothing further was heard

¹New York (State), Senate Journal, 1903 (Albany: The Argus Co.), I, p. 93.

²Ibid., pp. 296, 681.

of this bill after it was sent to the committee on public education.³

On March 10, Senator W. L. Brown offered a bill

to provide for complete educational unification of the public schools of the State by establishing a line of demarcation, placing the tax supported schools under control of the Department of Public Instruction and all others under the Regents of the University.

Sent to the committee on public education, this proposal, like the others, failed to see the light again.⁴ A companion proposal was introduced in the Assembly by Mr. McNair with like results.⁵

On April 3, Senator Stevens presented another bill proposing to amend the university law with regard to the number of regents and their tenure of office, and still another "to unify the educational system of the State under the supervision of the Regents." These bills did not appear again after being sent to committee.⁶

In the Assembly Mr. Landon on April 7, offered companion bills to Stevens' proposals as listed above, which met with a like fate in committee.⁷

³Ibid., p. 370.

⁴Ibid., p. 413.

⁵New York (State), Assembly Journal, 1903 (Albany: The Argus Co.), I, p. 877.

⁶Senate Journal, 1903, I, p. 827.

⁷Assembly Journal, 1903, II, p. 1831.

Another flurry resulted from a renewal of the controversy over control of the non-resident tuition funds. The report of Superintendent Skinner for 1903 requested of the legislature authority to spend \$150,000 from the free school fund to pay tuition to districts educating non-resident high school students. Interests friendly to the regents' control of the secondary schools, and of the entire school system, found reason to criticize Skinner for encroaching on the preserves of the board. Mr. Bardeen in his School Bulletin warned the state's educators that

The superintendent of public instruction and his reckless deputy are up to their old tricks, and making mischief again. For years they have been indefatigable in efforts . . . to undermine their co-ordinate department . . . the regents of the University, and have constantly striven, upon one pretext or another, to absorb the official functions of the regents.⁸

Further opposition to the proposal came in a letter to the Associated Academic Principals from their legislative and executive committees. The letter warned that treatment of the matter as Skinner proposed would result in additional supervision and inspection of high schools by the superintendent, already acceptably performed by the university. The eventual result would be transfer of the academies to the control of the superintendent, since no more duplication

⁸"Educational Marplots" (editorial), School Bulletin, XXIX (Feb., 1903), p. 89.

could be permitted.⁹

Mr. Bardeen in the same issue sent forth a solemn warning to the regents:

It is time for you to wake up. Probably like ordinary mortals you like your ease and prefer to avoid fighting, and do not hunger for any increase of official responsibilities and duties. But your official existence and the trust you hold are in peril.¹⁰

Bardeen was not concerned for the regents personally, but for the educational institutions which they controlled. No such organization existed anywhere, and only through it or one comparable to it could there be secured the "highest and most beneficent development of public education." It was the present duty of the board to seek legislation to protect that trust.

Whether you would or not, you have got to fight or pass out of existence, and the latter fate is planned for you by restless and unscrupulous adversaries. Prepare yourselves for battle without a moment's delay, and be not content with simply a defensive attitude. Force the fighting, and rallying as you easily can to your support all of our most enlightened and disinterested citizens, march on to that victory which will make you the supreme and uplifting supervisors of the entire public educational interest of the Empire State.¹¹

On February 4, the Assembly committee on ways and

⁹"Action of the Academic Principals" (editorial), School Bulletin, XXIX (Feb., 1903), p. 90.

¹⁰"A Word to the Regents" (editorial), School Bulletin, XXIX (Feb., 1903), p. 90.

¹¹Ibid., p. 90.

means held a hearing on the Merritt bill, which had been introduced on January 22, to implement the superintendent's request for authority to spend school funds for non-resident tuition.¹² The chairman, James T. Rogers, stated at the opening of the hearing that both departments had requested this authority, and the question at issue was chiefly which should be given the power.¹³

Chancellor Doane in his argument in behalf of the regents asserted that it was as illogical for the department to ask for the funds as it would be for the regents to ask authority to spend money for elementary schools. Dr. W. S. Aldrich, president of Clarkson Institute of Technology, said passage of the bill would require an additional set of high school inspectors. Secretary Parsons of the Board of Regents emphasized the double inspection and said it would not cost a cent for the regents to administer such a fund. Superintendent Armstrong of Medina, speaking for the Associated Academic Principals, said only one of three hundred letters he had received from principals supported the Merritt bill. Deputy Superintendent Ainsworth, who except for Skinner was the sole proponent of the department's point of view, argued that the superintendent had supervision over the high schools now and their management would be better if he had more power.

¹²Assembly Journal, 1903, I, p. 71.

¹³"Hearing before the Legislative Committee" (editorial), School Bulletin, XXIX (Feb., 1903), p. 91.

Ainsworth then turned upon Bishop Doane, asking if he were "after" Skinner, or after Ainsworth's scalp /sic/. Skinner also defended the action of the department in asking for the authority to spend the money.¹⁴

During the course of the hearing there was a sharp exchange of words between Ainsworth and Bishop Doane. The deputy superintendent was reported as having used the expressions "stick in the mud" and "trouble-maker" in speaking heatedly to the chancellor, who replied in a good-natured fashion. During the argument Bishop Doane pointed to Ainsworth and said, "I say to the superintendent of public instruction, 'Thou art he that troubleth Israel.'" ¹⁵

Mr. Ainsworth was also quoted as accusing the regents of assuming a censorship over the department.

We are unable to make a move without the regents knowing all about it, and this supervision comes from an aristocratic, ecclesiastical and isolated body of men.¹⁶

The heat of the argument over the Merritt bill prompted Skinner to issue a pamphlet early in March in support of his measure. In introducing his argument he asserted that the

¹⁴Ibid., pp. 91-92.

¹⁵New York American, Feb. 5, 1903, cited in "Hearing before the Legislative Committee," School Bulletin, XXIX (Feb., 1903), p. 92.

¹⁶New York Herald, Feb. 7, 1903, cited in "Hearing before the Legislative Committee," School Bulletin, XXIX (Feb., 1903), p. 92.

department had been subjected to unjust criticism resulting from "gross misrepresentations which have been industriously circulated throughout the state."¹⁷ He declared that he was not aware that the proposal to pay non-resident tuition had ever been advanced from any other source, and referred to his proposal in the annual report asking for the authority so to use school funds. He charged that his report had not reached the press before Chancellor Doane in a public statement denounced his proposition, and the cry was raised that the regents were being attacked. He denied that the plan he proposed would take away any "right, privilege or prerogative" which they then enjoyed.¹⁸

Mr. Skinner took the regents to task for a statement proposing to assume control of the whole educational system, which he branded as retaliation for the Merritt bill. He declared that such action would remove the schools as far away from the people as possible, for no member of the board had "ever been elected because of any recognized service to education, or because of any experience in public school work."¹⁹ He repeated a statement he had previously made about the regents:

Assuming to be afraid of political influence in the

¹⁷Charles R. Skinner, Educational Situation at Albany: Statement to the People (pamphlet) (Albany: 1903), p. 2.

¹⁸Ibid., pp. 2-3.

¹⁹Ibid., p. 3.

school system, politics of a most disgraceful character has entered into the discussion of this question-- politics of a disgraceful character for the reason that it has consisted largely of personal vituperation, untruthful statements and false issues.²⁰

Mr. Skinner declared that no district would be deprived of its academic department through passage of the Merritt bill. He favored secondary education, and believed that the high standards achieved by secondary schools was largely due to the quality of teachers provided through the training institutions and the uniform licensing system. If the proposal for payment of non-resident tuition should be defeated, it would be due to the "jealous opposition" of the Board of Regents.²¹

On April 23, Chairman Rogers of the committee on ways and means introduced a bill which apparently was a substitute for the Merritt bill. Assisted by certification from Governor Odell that immediate passage of the bill was necessary, it was rushed through under suspension of the rules, by a vote of 123 to 1.²² Under the same pressure it passed the Senate the same day, 27 to 22.²³

The old battle over partisan influences was raging at the same time. On February 12, at a meeting of the regents

²⁰Ibid., p. 3.

²¹Ibid., pp. 3-4.

²²Assembly Journal, 1903, III, p. 2900.

²³Senate Journal, 1903, II, p. 1534.

at the home of Whitelaw Reid in New York, the following statement was drawn up:

Recent manifestations of the evils arising from the existing dual system of State supervision of public education and an earnest conviction of the duty to take and keep the schools out of politics have constrained the regents of the University to advise and request that by suitable legislation the exclusive power and duty of such supervision be committed to their board. Their unbroken record for more than a century shows that they have not been eager for enlarged powers, and that in the words of Governor Odell's unsought but prized ecomium, they have been "absolutely without partisanship and actuated by the higher motives and the purest sentiments."

The supreme importance of the cause of public education and the wrong of leaving it exposed to the danger of partisan control needs neither stating nor urging, and it must be plain that educational interests will be promoted when such unified supervision removes that danger and abolishes hurtful and unhappily frequent contentions between the present two departments.²⁴

It was this manifesto to which Skinner referred in his public statement reviewed above.

On February 26, the Oneida county Homeopathic Medical Society passed resolutions condemning partisan influences in education, and urging the legislature to enact measures giving control to the regents. Similar action was taken the following day by a meeting of school principals in Chenango, Delaware and Otsego counties.²⁵

²⁴"Appeal of the Regents of the University" (editorial), School Bulletin, XXIX (Mar., 1903), p. 110. The manifesto was signed by Chancellor Doane, Vice-Chancellor Reid, and eleven members of the board.

²⁵"Examples for Imitation" (editorial), School Bulletin, XXIX (Mar., 1903), p. 109.

During the campaign which has just been described, a touch of levity was injected into the usually acrimonious or contentious comment of the press. In the Brooklyn Daily Eagle of March 16, 1903, appeared a piece entitled "'The Ragints Must Go' Says Mr. Dooley No. 2." Mr. Dooley, prototype of the popular humorous character of the day, had been "Shtudyin' the great quistion of ijigation in the State of Noo York" and was searching for someone who did not have his mind made up, to whom he might impart his new found information. His friend Mr. Hinnessy appeared to qualify, for he admitted he had never "gradiated from any instatootion more fancy than a hin coop."

In New York, said Mr. Dooley, there was a

doosal system of ijigation. It's the jooty uv ivry man on each side to watch ivry man uv the ither side. They's a sooper'n'tendent, and by the law he tinds to this an' that. An' a board of ragints, an' by law it tinds to the ither. An' now, they're scrappin' to decide who's the queen bee. The soop, he wants to tind to the ragints, an' the ragints, they want to tind to the Soop. Great is the cause of ijigation.

Mr. Dooley had come to the conclusion that the "ragints" must go.

Nineteen big, strappin' ragints . . . illicted for life, Hinnessy. . . . It's agin our politics, I. It's agin our blessed democracy fur to illict a man fur life.

Where will the fellie that's not illicted come in, tell me that? The ragints must go. An' is it a salary they be gittin'? . . . Not a cent pollutes their hands. It's the glory they git, an' the appreciation of the people that they git. . . . For years and years they have been soakin' up with honor. It's a shame, Hinnessy. It's dead wrong. I'm for the Soop. . . .

Let him appint his dipity and let his dipity appint nineteen assistant dipities. More money, sez I, for the cause of ijigation. Let ivry dipity have a salary, I sez, and build up the cause.

. . . The ragints is a monopoly, I sez. An' the poor Soop. . . . Shure he's paid in money--palthry gold and silver and green paper. . . . He's sarved for years, and no reward but a salary. An' now whin like the whale of ould, he hez awlmost swallowed those nineteen ragints, puffed as they air with the salaries of their office, the ungrateful ragints object, Hinnessy.

It's a shame for thim to act so. Having done their work, let them stip aside and give the Soop a chanst. Give him the high schules. Let him show what he can do. . . . Wy, hez he not run the institoots? An' could any man find a way to go to sleep quicker than at an institoot? . . . These min should be heard. . . . Give them a chanst. . . . The department furiver! Kick the ould ragints out. They're blockin' the path uv the Soop an' his dipity. Lave them stip aside. Give the politishins a chanst to put ijigation, in Noo York, where it belongs, that is, where they kin git at it. The ragints must go, sez I.²⁶

Further evidence of continued friction between the two departments appeared during the early fall of 1903. In the spring of the previous year the legislature had amended the consolidated school law, as noted in our discussion of the non-resident tuition controversy, appropriating \$100,000 or as much of it as necessary to pay tuition for high school pupils from districts not having an academic department. Payment was to be made on certification of the superintendent and the chancellor.²⁷

²⁶Brooklyn Daily Eagle, Mar. 16, 1903, cited in "'The Ragints Must Go' Says Mr. Dooley No. 2," School Bulletin, XXIX (Mar., 1903), p. 138.

²⁷New York (State), Session Laws, 1903 (Albany: J. B. Lyon), pp. 1211-1212.

The October issue of the School Bulletin contained a list of schools of academic grade which had been approved for non-resident contracts. The list bore the signature of Secretary Parsons of the Board of Regents.²⁸ Skinner under date of September 17, sent a tart letter to Parsons in reply to a request for certain changes in the tentative list submitted to the superintendent. Skinner said rather stiffly that several schools listed in the request had been on the earlier list, and he had notified them that they had been approved. He did not think that approval once given could be legally withdrawn simply because the Board of Regents objected to past acts of the school or someone connected with it, such as failure to send in an acceptable report.²⁹

Mr. Parsons replied with equal warmth--or lack of it--reminding Skinner that he should not object to omitting eight schools which had been on the tentative list when he (Skinner) had left out fifty schools which had been on the chancellor's tentative list. Parsons then proceeded to speak plainly:

You had no more authority to notify the schools on our tentative list that they had been approved finally by the chancellor than he would have had to notify all schools on your tentative list that they had been approved finally by the superintendent. Our tentative list, like yours, was stamped plainly as tentative, and

²⁸"Tart Correspondence" (editorial), School Bulletin, XXX (Oct., 1903), pp. 27-28.

²⁹Ibid., p. 30.

like you, the chancellor stated in transmitting it that it was subject to change. You must bear the responsibility of having notified schools only tentatively approved by the chancellor that they had been finally approved by him. . . .³⁰

A second indication of friction appears in a circular letter issued by the Board of Regents early in October, 1903. The circular denied reports that the board was abandoning opposition to efforts to transfer the high schools to the control of the superintendent.

The regents will never sanction . . . the attempted change in the efficient supervision under which the extraordinary development of these schools has been accomplished. . . . The regents . . . have no intention of relaxing their efforts for the protection and advancement of the welfare of any of the schools under their charge.
 . . .³¹

On April 23, 1903, a joint resolution was adopted by the legislature providing for the appointment by the lieutenant governor and the speaker of the Assembly of a special joint committee. This group, consisting of five members of the Senate and seven of the Assembly,³² was given by the resolution full power to investigate the educational interests of the state. To accomplish its aims, it was authorized

³⁰Ibid., p. 30.

³¹"The Struggle for the High Schools" (editorial), School Bulletin, XXX (Nov., 1903), pp. 45-46.

³²New York (State), "Final Report of the Special Joint Committee on Educational Unification," Senate Document No. 25, 1904 (Albany: Oliver A. Quayle), pp. 10, 228. The committee consisted of Senators Lewis, E. R. Brown, Stevens, Townsend and Grady, and Assemblymen Landon, Rogers, Apgar, Phillips, Merritt, Palmer and McKeown.

to hold sessions after the adjournment of the legislature and outside the capital. It had, further, power to "send for persons and papers," to issue subpoenas, and to compel witnesses to attend or produce for its use any books, papers or documents. The resolution directed the committee to report to the legislature on or before February 1, 1904. The committee in its report was required to recommend any legislation necessary for the betterment of the educational interests of the state.³³

Only two senatorial and six assembly members were present.³⁴ After some informal discussion the committee determined to ask the two educational departments for a "chronological and historical record" of the development of each, what institutions each controlled and in what instances there was duplicate supervision. The committee also decided to obtain comparative data on the educational systems of other states. These assignments were handed to Secretary Parsons, Superintendent Skinner, and Dr. Robert H. Whitten, sociological librarian of the state library. The committee then adjourned until December 2.³⁵

At the adjourned meeting Dr. Whitten presented a comprehensive survey of the systems of educational control and supervision found in the other states, as well as a summary

³³Ibid., p. 11.

³⁴Ibid., p. 12.

³⁵Ibid., pp. 12-13.

of his report.³⁶ In response to questions Dr. Whitten said that there was no other state with a board having life tenure similar to the regents, and no other state with a double system like that of New York.³⁷ Asked how many states had a superintendent with no controlling board, Dr. Whitten said that five states had no board at all, and in five others the boards merely controlled school funds.³⁸

Secretary Parsons presented a comprehensive brief requiring some forty pages of the committee report, which covered all the essentials of the history of the university and the Board of Regents, the development of their activities, and the legal bases for their duties, as outlined in earlier sections of this study.³⁹

Superintendent Skinner was laconic by comparison with a statement requiring less than half the space taken for the secretary's brief. He reported completely on the legal and constitutional history of the common school system.⁴⁰ At

³⁶Ibid., pp. 15-17.

³⁷Ibid., pp. 21-22.

³⁸Ibid., pp. 25-26. Dr. Whitten's report indicated that there were state boards of education with more or less power in all states excepting Alabama, Illinois, Maine, New Hampshire, and Ohio. In 28 of these 43 states the boards supervised the entire system. All had state superintendents except Connecticut, Delaware and Massachusetts, and the superintendent was usually a member or an executive officer of the state board. In one state the superintendent was elected by the board; in two by the legislature; in ten he was selected by the governor and in 32 elected by the people.

³⁹Ibid., pp. 26-68.

⁴⁰Ibid., pp. 73, 75.

two points in his brief he paid his compliments to the Board of Regents and their powers. Referring to the union free school act of 1853, he mentioned that the academic departments in such schools were under the visitation of the regents so far as courses of study were concerned.

This . . . is the first time . . . that the Regents . . . were permitted to enter the public, common school system. Every vestige of power which they have over the tax supported school is given them by this ancient act.

This is the only statute which has ever been enacted in the State . . . conferring upon the . . . Regents any shadow of authority over the common tax supported schools.⁴¹

Still referring to the union free schools, the superintendent said, "The Regents may recommend changes in courses of study. The local authorities may acquiesce or not."⁴²

After listing some thirty-five "powers and duties" of the superintendent, which boiled down to approximately eleven categories, Skinner made his second point concerning the Board of Regents:

The only power the Board of Regents have over a tax supported common school is the right of visitation and inspection. They cannot compel the performance of any single act therein. *[Italics in original.]*⁴³

Following the presentation of the briefs the joint

⁴¹Ibid., pp. 73, 75.

⁴²Ibid., p. 75.

⁴³Ibid., p. 87.

committee adjourned until December 3, to permit the members to study the information provided.⁴⁴ When the committee reconvened and the discussion was opened, the chairman expressed the opinion that the committee, to put an end to the friction in the state educational system, could either create a department of education as proposed in the White bill of 1900, or adopt a proposal similar to the Walter Brown bill of 1902. The latter repealed the provisions of the law of 1853 which had given the Board of Regents visitation powers over the academic departments of high schools established under the union free school law. This proposal, the chairman declared, would draw a line between the activities of the Board of Regents and of the state superintendent.⁴⁵

Replying to a suggestion that the latter proposal would not conform to the public expectation, Chairman Lewis agreed that "the educational interests of the State are committed to the proposition that there should be one supreme educational authority in this State. . . ."⁴⁶ Senator Grady, objecting, declared that the committee would not meet public expectations merely by attempting to settle conflicting authority by the repeal of inconsistent statutes. Lewis interjected: "In other words, we won't meet public expectation by chaining up the dog," to which Grady replied, "No,

⁴⁴Ibid., pp. 88-92.

⁴⁵Ibid., p. 94.

⁴⁶Ibid., p. 95.

sir, you got to kill him."⁴⁷

Senator Stevens proposed that the desired purpose be accomplished by establishing a commission, as nearly non-partisan as possible. The members would individually be heads of educational departments, such as finance, law, secondary education, etc., and collectively supervise the work of the existing educational departments. By constitutional amendment he would reduce the power of the Board of Regents to control of the academies, the state library and museums.⁴⁸

Senator Grady, called upon as senior member of the committee, asserted that he would hold on to the Board of Regents, but as a supervisory body, with experts heading bureaus and responsible to the Board of Regents.⁴⁹

Assemblyman Landon called attention to the tremendous power exercised by the superintendent of public instruction. With this power, from which there was no appeal, he could annul or suspend the licenses of any or all of the 38,000 teachers, and condemn any schoolhouse and demand its replacement. Lewis added that if the district in the latter case failed to carry out his mandate he could levy the tax and provide for the construction of the building himself. Landon

⁴⁷Ibid., p. 95.

⁴⁸Ibid., p. 96.

⁴⁹Ibid., pp. 97-98.

insisted there should be some power of appeal.⁵⁰

Senator Lewis suggested that the superintendent be popularly elected and made presiding officer of the Board of Regents and chief executive officer of the state educational administration, with appeal from his decisions to the Board of Regents. He proposed further that the Board of Regents be reduced in size by not filling vacancies for a time, and that the board be the final arbiter in case of dismissal of bureau heads by the superintendent.⁵¹ There was some agreement to Assemblyman Palmer's proposal that the regents be appointed by judicial districts,⁵² but opposition to suggestions that the dominant party be given majority power in the board.⁵³

The committee, after further discussion, agreed that the desirable aim of the committee and of educational interests alike was unification.⁵⁴

At the next meeting of the committee, held December 21, 1903, Chairman Lewis in an introductory statement declared that after consideration of the briefs of the disputants, the members of the committee had agreed that the two parties should prepare and submit bills embodying their respective

⁵⁰Ibid., pp. 101-102.

⁵¹Ibid., pp. 103-104.

⁵²Ibid., p. 104.

⁵³Ibid., p. 104.

⁵⁴Ibid., pp. 106-107.

views as to the means of clarifying the educational system of the state.⁵⁵ The chairman proceeded then to read a communication from Secretary Parsons stating that the Board of Regents had considered the request for a bill or bills, and would submit proposals "in ample season." The secretary also filed a brief in reply to that submitted at the earlier meeting by Superintendent Skinner:

1. The superintendent's brief appeared to be an argument designed to support three theses: (a) in the laws of the state "common school" is synonymous with "public" or "tax supported" school; (b) the superintendent of public instruction had "sole and exclusive power of supervision" over all public schools; (c) the powers of the Board of Regents over public schools were limited to "right of visitation and inspection" and did not include any compulsive power.⁵⁶

2. Powers of the university by definition in the university law of 1892 /Chapter 378/ included academies as well as higher and technical schools, "academies" being defined in the statute as incorporated schools as well as academic departments in union free schools. Compulsive power was inherent in the section of the law permitting the regents to exclude from the privileges of the university system any

⁵⁵Ibid., p. 109. No reference to such a proposal is found in the minutes of the preceding meeting.

⁵⁶Ibid., p. 110.

school failing to comply with the law or the ordinances of the university.⁵⁷ The consolidated school law of 1894 practically repeated the language of the union free school act of 1853 in placing academic departments in union free schools under the visitation of the regents and under their jurisdiction with regard to their "courses of education."⁵⁸ The regents, having sole distribution of funds appropriated for secondary education, had the power since the act of 1853 to enforce their regulations for the control of secondary schools by withholding moneys due the school district for secondary education.⁵⁹

According to the consolidated school law, all union free schools were "subject to the visitation of the Superintendent of Public Instruction" who was "charged with the general supervision of its board of education and their management and conduct of all its departments of instruction."⁶⁰ The secretary found comfort in this statement, declaring that there was no conflict, since the superintendent had the power of visitation and the right to supervise the boards of education, while the regents had power to visit the academic departments and examine their courses of study. He declared,

⁵⁷Ibid., p. 111.

⁵⁸Ibid., p. 111.

⁵⁹Ibid., p. 112.

⁶⁰Ibid., p. 112.

It is inconceivable that the Legislature intended to give the same powers to two different State departments in the same act. The only reasonable interpretation of the two sections is that the Regents were given certain definite functions and the Superintendent was given certain other definite functions. The Superintendent has power to compel the board of education to comply with statutory provisions. The Regents have power to insist on the observance of their regulations concerning the educational work of the school.⁶¹

3. As to the interpretation of the term "common school," which Superintendent Skinner's brief had declared on the authority of the Century Dictionary to be synonymous with "public school," Secretary Parsons quoted a different definition from the same volume to prove that the term meant "elementary school." From Bouvier's Law Dictionary he brought forth a definition of common schools as schools for "general elementary education."⁶² On the basis of these definitions, as well as the use of the expressions "common school department" and "academical departments" in section 16 of chapter 433 of the laws of 1853, he insisted that the legislature meant elementary school when it used the term common school.⁶³

To further buttress his argument Secretary Parsons found in the consolidated school law the following:

The Board of Education shall possess all the powers and privileges, and be subject to all the duties in

⁶¹Ibid., p. 113.

⁶²Ibid., p. 113.

⁶³Ibid., p. 114.

respect to the common schools, or the common school departments in any union free school in said districts, which the trustees of common schools possess or are subject to under this act, . . . and to enjoy /sic/ whenever an academic department shall by them be established, all the immunities and privileges now enjoyed by the trustees of academies. . . .⁶⁴

To show that the superintendents themselves had been wont to use the term common school as meaning elementary, he quoted further from a decision of Superintendent Gilmour in 1880:

The appeal is brought from the action of the trustees excluding from the district school certain advanced studies. This department will neither insist upon nor prohibit the introduction and teaching of branches not usually taught in the common schools of the State. . . .⁶⁵

Parsons found further comfort in the 1889 report of Superintendent Andrew S. Draper:

I deem it proper to say that reflection and experience convince me that the arrangement which has so long existed in this State by which the common school interests are administered and supervised by this department, and the academic interests by the Board of Regents of the University, is a wise and useful one. Between these two classes of school work there is a natural and well-defined line of separation.⁶⁶

Omitting still further multiplication of the evidence, we find this final item:

⁶⁴Ibid., p. 114.

⁶⁵Ibid., p. 115.

⁶⁶Ibid., p. 115.

But whatever the meaning of "common school," the fact remains that up to the time of the enactment of the union free school law of 1853 there were no common schools in the State except the elementary schools. Many of these schools undoubtedly taught some academic subjects, as the common district schools do today, but such teaching was incidental. There were no academic departments organized as such in public schools till /sic/ 1853, and when provision was made for the organization of such departments the supervision of their courses of education was placed under the Regents. . . .⁶⁷

Secretary Parsons then proceeded to point out that in the division of work between the two departments, assignments had been made according to educational work rather than the type of school.⁶⁸ The transfer to the department of public instruction from the Board of Regents, of training classes for teachers, included all such classes in both public high schools and academies. The supervision of teacher training in colleges had been assigned to the department also because of its relationship to licensing of teachers.⁶⁹ On the other hand, the assignment of examinations for Cornell scholarships to the department was contrary to this provision; the assignment should have been to the regents.⁷⁰ Division according to schools would have necessitated duplicate organizations in such instances as examinations for scholarships in academies and public high schools; examinations for

⁶⁷Ibid., p. 117.

⁶⁸Ibid., p. 118.

⁶⁹Ibid., p. 119.

⁷⁰Ibid., p. 119.

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⁶⁷Ibid., p. 117.

⁶⁸Ibid., p. 118.

⁶⁹Ibid., p. 119.

⁷⁰Ibid., p. 119.

pre-professional certificates in the two types of secondary schools; and supervision of training classes in high schools as against the academies.⁷¹

4. Referring to friction over the training of teachers, Parsons cited a statement in Superintendent Skinner's brief which had charged that the teacher training classes had first been placed by the original law of 1834 under the Board of Regents, but the system had proved so unsatisfactory that transfer to the department of public instruction had been made in 1889. Parsons asserted that the change had been made not because the results were unsatisfactory, but that the regents had recommended the transfer on the understanding that the differences between the two departments would be removed as a result.⁷²

Parsons next attacked Skinner's statement in the recapitulation of powers of the superintendent, that the superintendent had power to prescribe courses of study in schools maintaining training classes.

Chapter 1031 of the Laws of 1895 gives to the Superintendent the power to prescribe the course of study for the training classes, but no power to prescribe other courses of study. He may, of course, assign training classes to such schools only as furnish courses of study satisfactory to him, but he has no statutory power to prescribe courses of study for those schools. . . .⁷³

⁷¹Ibid., pp. 119-120.

⁷²Ibid., p. 121.

⁷³Ibid., p. 122.

As a means of delimiting the activities of the two departments, Parsons offered the following suggestions:

a. Give to the Regents sole supervision of courses of study in academic education in all schools under their jurisdiction, as was the case up to 1895. This could be accomplished by amending lines 8 and 9, section 4 of Chapter 1031 of the laws of 1895.

b. Amend chapter 542, Laws of 1903, for the payment of non-resident tuition, vesting the administration of the act entirely in the Regents.⁷⁴

He asserted that these two acts produced the duplication of work which was the cause of much of the friction.⁷⁵

The secretary, in closing his brief, took vigorous exception to the suggestion made by Superintendent Skinner that the legislature repeal that section of the union free school act placing academic departments in those schools under the regents:

The action which the Superintendent . . . proposes would destroy the strength of the Regents as an effective educational force. . . . From the beginning the supervision of courses of education in high schools, academies and academic departments has been, as it is today, the chief function of the Regents, the heart of their work, the foundation on which the whole system of higher, professional and technical education rests. They do not believe the Legislature will sanction the change, proposed by Mr. Skinner, in the efficient supervision under which the extraordinary development of our secondary school has been attained.⁷⁶

⁷⁴Ibid., pp. 122-123.

⁷⁵Ibid., p. 123.

⁷⁶Ibid., p. 123.

The chairman introduced a letter in rebuttal from the superintendent of public instruction:

. . . The . . . only satisfactory solution of the present difficulty in educational matters . . . is to establish a clear line of demarcation between the tax-supported schools and all other educational activity.

Under the Constitution the State must maintain a system of common schools. . . . /which/ should be maintained separate and distinct from library work, university work, technical, preparatory, private and church schools--with no one of which it has a single thing in common. It involves the taxing power, the judicial power and the legislative power of the State and should be administered by a State officer amenable to the people, elected for a definite term, subject to removal as other State officers and in the same way, and be treated as a function of the government. . . . The tax-supported common school is the most distinctive American institution we have. It should be officered, controlled and directed by interests owing no allegiance . . . to any other. . . . This result may be accomplished by the enactment of the Walter L. Brown bill of last winter.

. . . If the proposition . . . herein outlined does not meet the approval of this committee, or . . . is impossible of accomplishment, . . . this Committee should consider the proposition of Senator Elon R. Brown (in its finally amended form) as introduced last year. . . .

. . . Should neither of these propositions meet with the approval of this committee, . . . I would yield . . . support to the bill introduced by Senator Horace White at the session of 1900, . . . bill No. 170. . . .⁷⁷

In the resulting discussion Superintendent Skinner summarized the W. L. Brown bill as placing the tax-supported schools under the department of public instruction and all

⁷⁷ Ibid., pp. 124-126.

others under the jurisdiction of the regents.⁷⁸ The Elon Brown bill provided for an elected board of education of eleven members, eight elected by the majority in the legislature and three by the minority, to control all educational activities in the state, public and private. The White bill provided that no regents should be elected to fill places made vacant by death of members, until the number had been reduced to fourteen. The superintendent believed that the number should be still further reduced to nine, a smaller board being more easily administered.⁷⁹

Mr. Skinner further declared that the agitation involving the two departments had begun the previous winter over the authority to distribute an appropriation requested of the legislature for institutions designated to receive non-resident students. Skinner repeated his charge that the regents had no authority to enforce any decision. He declared that because the regents apportioned under the Horton Law of 1895 a quota of one hundred dollars to academic departments when organized, plus three cents per day for attendance, the board believed it should also apportion the money proposed to be appropriated by the Merritt bill. He believed that the line of demarcation in supervision should be established at the end of high school, representing the

⁷⁸Ibid., pp. 126-127.

⁷⁹Ibid., p. 127.

end of public authority over the school.⁸⁰ ". . . I claim that in the matter of this nonresident tuition none but public schools should participate in its distribution. . .

.⁸¹ However, in view of a law of 1873 authorizing the regents to distribute money to private academies, Skinner asserted that the department would not object to such a distribution if the legislature provided the money.⁸²

A plan for unification was presented⁸³ proposing to unify all educational interests under the Board of Regents, eliminating the ex officio members and reducing the board to nine popularly elected officials, serving eight year terms. The chancellor, according to the proposal, would also be elected by the people. The newly elected regents would by lot be designated to serve terms of two, four, six or eight years, to establish continuity. The Board of Regents would appoint the superintendent of public instruction, any of whose decisions could be appealed to the board. With the exception of the power of appointing normal school boards, the powers of the superintendent as then existing would be continued. During the life of the present regents, the new board would co-exist with the old, authority shifting

⁸⁰ Ibid., pp. 128-130.

⁸¹ Ibid., p. 131.

⁸² Ibid., p. 133.

⁸³ By Mr. Landon, from the tenor of the subsequent discussion. No name was given.

to the new as the existing members retired or died.⁸⁴

The subsequent debate on the Landon proposal centered largely on the method of selection of state school officers as shown in the ambitious chart prepared by Dr. Whitten and presented with his testimony at the outset of the hearings.⁸⁵

Senator Stevens presented a proposal which he admitted was a composite of parts of the Brown and White bills as well as others. He suggested the establishment of a state department of education, as had Brown, under the executive authority of a superintendent of education nominated by the governor with the advice and consent of the Senate, to serve until January 1, 1905, his successor to be elected for four years by the people at the fall election. The proposal included as well the establishment of bureaus of public instruction, higher education, home education, law and finance, under the immediate control of a director, but subject to the superintendent. Directors would be appointed by the superintendent with the consent of the Board of Regents, who could also remove any director. After the Board of Regents had been reduced by death, resignation or removal to nine members, the legislature should fill any vacancy subsequently occurring by electing first from the First Judicial district, and so in rotation, vacancies thereafter to be filled from the same

⁸⁴Senate Document No. 25, 1904, pp. 138-139.

⁸⁵Ibid., pp. 139-146.

district. Not more than seven regents should be members of the same party. The superintendent was to have the same powers as then possessed but appeals could be taken from his decisions to the Board of Regents, who might summon witnesses and administer oaths.⁸⁶

Debate on the Stevens proposal centered principally on (1) the advisability of popular election of the superintendent and/or the Board of Regents; (2) the possibility of a one-sided political majority in a board elected by judicial districts; (3) the possible effects of the change in executive authority resulting from popular election for a relatively short term; (4) the injection of politics into the election of the superintendent; and (5) whether the popular election of a superintendent and the legislative selection of the Board of Regents would increase or decrease friction.⁸⁷

Debate finally simmered down to a statement that all were apparently agreed upon some form of unification in order to centralize responsibility. When a vote was called for the committee was unanimously for unification under one board.⁸⁸

Discussion centered next on the manner of election of the proposed board of education, particularly the Stevens

⁸⁶Ibid., pp. 149-151.

⁸⁷Ibid., pp. 151-164.

⁸⁸Ibid., p. 165.

proposal for election by judicial districts.⁸⁹ Objections to popular election included the necessity of eliminating political influence, the difficulty of obtaining able men for the proposed board, and the absolute necessity of obtaining the ablest men available. Senator Brown was convinced that popular election would be productive of unsatisfactory results, such as obtained in local school commissioner and school board elections, and declared his conviction that rather than risk such results the situation might better not be changed at all.⁹⁰ In a test vote on the question of whether the members of the proposed educational board should be elected by the people of the state, Senator Brown and Assemblyman Apgar voted "no"; Senators Lewis (chairman), Stevens and Townsend, and Assemblymen Landon, Palmer and Merritt approved the proposed method of election.⁹¹

As the day's debate drew to a close, Senator Brown called the attention of the committee to the fact that New York City cast a disproportionately large vote, and would therefore have a large voice in the selection of the proposed board. At the same time it maintained an educational system practically autonomous as to control, but, as Landon pointed out, drew more state money for teachers' salaries

⁸⁹Ibid., pp. 166-167.

⁹⁰Ibid., pp. 167-172.

⁹¹Ibid., pp. 175-176.

than any other judicial district in the state.⁹²

A new twist to the evidence of difference of opinion between the two departments was revealed when the joint committee re-convened in Albany on the morning of December 22, 1903. Appearing before the committee with a request to be heard were Rev. Dr. George H. Ball, President of the Trustees of Keuka Institute; F. L. Lamson of Cook Academy, and Dr. Melville R. Webster, presiding elder of the Rochester District and trustee of Genesee Wesleyan Seminary at Lima. As spokesman for the trio, representing the academies of the state, Dr. Ball presented a statement which he signed together with M. H. Roberts, Chesbrough Seminary, North Chili; Rev. T. G. Bissell, Genesee Wesleyan Seminary; Hosea Clark, Marion Collegiate Institute, Marion; and F. L. Lamson of Cook Academy, Montour Falls.⁹³ An extended excerpt from the statement indicates the purpose of their appearance before the committee:

Last winter the Legislature appropriated \$100,000 for the payment of the tuition in academic studies of scholars of academic grade from districts where no school with academic facilities exist, subject to the approval of the Chancellor of the University and the Superintendent of Public Instruction. The Legislature, of course, designed this money primarily to benefit the students who, rather than the schools, needed such provision. The Chancellor ruled, if the Attorney-General held tenable such construction of the statute, that scholars of the specified grade attending either academic

⁹²Ibid., pp. 176-177.

⁹³Ibid., pp. 179, 182.

departments of high schools, or Regents academies, should each share equally in the appropriation, while the Superintendent rules that only such as attend the Academic Department of High Schools shall be benefited, on the plea that academies are private institutions and as such should not in any form share in public funds. . . . As the law now stands there is no appeal from the ruling of the Superintendent, and as he declines to submit the case to the Attorney-General, this exclusion of academic scholars becomes absolute and final. A school law which lodges such absolute power in one person should certainly be amended.

We respectfully protest that this ruling is unjust. .

. .

To the ruling that these academies are private institutions we object. Regents Academies . . . are created under State control. . . . If any academy suspends operation, the entire property reverts to the disposal of the Regents. . . . To receive public money from the State for the increase of library or apparatus an equal amount has to be raised by private contribution and then all books and laboratory supplies purchased by such funds belong to the State by reversion if the academy ceases operation. . . . They are absolutely prohibited from imposing any sectarian or denominational conditions in the selection of trustees, directors or instructors or for the admission of students. . . . It is vastly to the interest of education that the grand work done by the Regents during the last century should not be obstructed or destroyed. This discrimination against academies should cease. . . . The taxpayers should be allowed to send their academic scholars to any public institution which offers good academic instruction and share in all appropriation funds by the State towards the payment of their tuition. . . .⁹⁴

The brief offered two suggestions: first, that the committee recommend that the law be amended to permit non-residents attending either a non-sectarian academy or a high school academic department to share in state tuition funds; and second, that the amount allowed be credited to

⁹⁴ Ibid., pp. 179-182.

the students' tuition bill, and the academies not be restrained from charging additional tuition beyond the state payments.⁹⁵

Supporting the prepared statement, Dr. Ball pointed out further that since the establishment of the department of public instruction there had been an evident "trend against academies" in the administration of the department. As proof of his statement, he pointed out the evolution of normal schools to train teachers at great expense, instead of allowing the academies to perform that function; the withholding by the superintendent from the academies of any share of \$60,000 appropriated by the legislature from the free school and deposit funds for support of teachers' training classes; the withholding of certificates from prospective teachers who were graduates of regents' academies; the refusal of the superintendent to include regents' academies, as stated above, in the list of eligible schools which non-residents might attend under the tuition payment provided in 1903, and in violation of an act of 1902 authorizing free school districts not including an academic department to contract for academic education with a regents' academy in the district. Dr. Ball concluded his statement with an earnest declaration of the deepest interest of the patrons and friends of the academies in whatever plan the

⁹⁵Ibid., p. 182.

committee might devise for improving the status of education in the state:

They desire the ancient, well-settled policy of the State respecting Academies shall continue; that their investments shall not be practically confiscated; that scholars who attend them shall share in public funds equally with those who attend academic departments of union free schools; that money they contribute to the cause of education, in addition to the taxes they pay, shall not work discrimination against academies . . . ; that graduates from these academies shall be welcomed to the ranks of teachers in our public schools equally with graduates, no better qualified, from tax-supported schools.

. . . The most intelligent and public spirited citizens of the State are exceedingly anxious that your report to the Legislature shall be just and equal to all departments of our educational systems; that it shall present a plan of unification which will cure the chafing and expensive rivalry of the two departments; . . . that under your advice the Legislature shall enact laws which shall ensure that /sic/ not only harmony and efficiency in the administration of educational matters, but increase the enthusiasm⁹⁶ of our citizens in the support of all our schools. . . .

Questioned by the members of the committee, Dr. Ball declared it to be his opinion that the legislature might well provide for a single board to supervise education and that it made little difference whether the board so established was appointive or elective, so long as the people could be sure that capable men were selected.⁹⁷ Under further questioning Dr. Ball stated that parents who sent their children to academies, paying the rate there in addition to

⁹⁶Ibid., pp. 185-186.

⁹⁷Ibid., pp. 186-187.

taxes for the support of public schools, did so in the belief that academies were superior in the supervision of and control over the students, in such matters as regular study hours. He declared further in response to questions from Superintendent Skinner that the academies attempted to do more than prepare students for college; that his institution maintained a teacher of methods, trained in a normal school, without benefit of assistance from the state for that purpose; and that the school received an appropriation for apparatus and attendance money from the regents, amounting to about \$800.⁹⁸

Following a period of further debate on the matter of election or appointment of the regents or other members of a proposed board of education, Senator Stevens presented another bill which may be summarized as follows:

1. Establish a state department of education, headed by a board of three commissioners, with supervision over all public schools maintained by public taxation.

2. Commissioners to be elected by the legislature, two representing the majority and one the minority in the houses.

3. The first commissioners to be elected for two, four and six years, the members to determine by lot which should serve for each term.

4. Chairman and secretary to be elected by the board from their own number.

5. Chairman to supervise normal and high school

⁹⁸Ibid., pp. 186-190.

education; secretary to have charge of records and legal and financial matters; the third member to supervise primary and secondary /sic/ departments of the common schools.

6. The commission to have power to decide all questions then in the jurisdiction of the superintendent of public instruction, their decision to be final.⁹⁹

There followed an almost interminable examination of the Stevens proposal, picked apart word by word and phrase by phrase. The following quotation indicates the general procedure:

Senator Stevens: "The Commissioners of Public Education shall possess all the powers of the Superintendent of Public Education and such other powers as may be necessary to give them complete and absolute control."

Assemblyman Palmer: Such powers as the Superintendent of Public Education now possess by law.

Senator Stevens: The Commissioners of Public Education shall possess all of the powers of the Superintendent of Public Instruction.

Assemblyman Palmer: All the powers now possessed by the Superintendent of Public Instruction, and . . . such others as are hereinafter provided.

Senator Stevens: Together with such other powers as is /sic/ necessary to give them complete and absolute control of the tax-supported schools of the State.

The Chairman: You are inviting a lawsuit there. I think you want to define it so there won't be any question for a lawsuit. Your idea is all right, but you have got to express it a little different there. I think Palmer's suggestion is correct.

Assemblyman Palmer: Such other powers as are herein or hereinafter provided.

⁹⁹Ibid., pp. 194-195.

Senator Stevens: Such other powers as are herein or hereinafter provided.

The Chairman: "Herein" means in this bill; so what does "hereinafter" mean?

Assemblyman Palmer: That is redundant, strike that out, "herein" is enough.

The Chairman: Such other powers as are herein provided.¹⁰⁰

After two attempts, on January 7, 1904, to obtain a quorum for a meeting in New York City had failed, the committee convened again in Albany on January 13. A bill drafted by Senator Stevens was discussed informally. Section one proposed to create a state department of public education composed of three commissioners, two elected by the legislature and one by the regents. Section two of the bill consisted of definition of terms. Section three prescribed the method of election of the commissioners to be chosen by the legislature, stipulating that both should not be members of the same political party, and that the three commissioners should draw lots for the respective terms. Section four provided the method of electing successors to the commissioners, and section five the method of filling vacancies. According to section six, the commissioners would receive \$6,000 per year. Section seven fixed the place and date for the first meeting of the new board, and section eight provided for transfer of powers from the department of

¹⁰⁰Ibid., pp. 200-201.

public instruction to the new department. This section proposed to vest in the new department complete power over all common schools, including elementary, secondary and academic departments of union free schools in which free instruction is supported by taxation. Section nine provided for general powers of the commissioners. In section ten, detailing the specific powers of the individual commissioners, the draft bill with due seriousness provided that the president of the commission should be ex officio a regent, a trustee of Cornell University and a manager of the Syracuse State Institution for Feeble-minded Children!¹⁰¹

The president was also vested with power over normal and secondary school education. The secretary, in addition to records and minutes, was charged with control over legal and financial matters, while the third commissioner was to occupy his time with the supervision of elementary education, enforcement of the compulsory education law, and education and certification of teachers, through examinations, institutes, and training classes. Of the remaining six sections, the chief was section thirteen, abolishing the offices of the superintendent of public instruction and his first and second deputies.¹⁰²

On January 27 the committee convened again in Albany, and upon calling the meeting to order the chairman, Senator

¹⁰¹Ibid., pp. 211-215.

¹⁰²Ibid., pp. 216-217.

Lewis, without further ado read to the committee a proposed bill, which he described as "a legislative bill" which had been "evolved from the various discussions and conferences that have been held." The bill, modified after its submission with the committee report, in two minor points, provided in section one for eleven regents to govern and exercise the powers of the University of the State of New York on and after April 1, 1904. Ex officio regents were eliminated. Section two provided for election of the eleven regents by the legislature in the manner then prescribed by law. The new election was to be from the ranks of the then Board of Regents, the members being respectively elected for terms from one to eleven years, their successors being named for eleven year terms. So far as possible, regents were to be elected from each judicial district. Section three prescribed the election by the legislature of a commissioner of education, who might or might not be a resident of the state.¹⁰³ The commissioner was to exercise the authority and perform the duties of both the secretary of the Board of Regents and the superintendent of public instruction, both positions being abolished. The commissioner was to receive \$7,500 per year plus \$1,500 for expenses, and was to be elected for six years, his successor to be elected by the Board of Regents for an indeterminate term. The commissioner's

¹⁰³

The foregoing clause was added by amendment.

duties and powers, specified in section four, included general supervision of all educational activities of the state, creation of departments, and appointment of personnel and fixing of salaries, subject to approval of the regents. He was authorized to apportion all money previously appropriated for common schools and distributed through the superintendent of public instruction, and for secondary education apportioned by the Board of Regents. These payments were to be made "on warrant of the Comptroller."¹⁰⁴

A somewhat acrimonious discussion followed, principally concerning the possible political results of selecting the regents by judicial districts. During the argument Assemblyman Palmer, one of the Democratic members who later signed the minority report, objected to consideration of a bill not previously considered in committee, and accused Senator Brown of "using his hand quietly" to bring about its consideration by the committee. At the same time he asserted that the minority had no particular objection to the bill but wanted time to study it. The chairman, however, calling attention to the impending expiration of the committee, called for a vote on reporting it to the legislature, which was carried eight to four, the dissidents being

¹⁰⁴In the original the last phrase read "on warrant of the Commissioner." It was changed at the request of the Comptroller to make it identical with other statutory provisions of similar nature. Senate Document No. 25, 1904, pp. 219-222.

Senators Townsend and Grady (whose vote was registered in absentia with the privilege of changing it), and Assemblymen Palmer and McKeown.¹⁰⁵

Under date of February 4, the four minority members of the committee presented a dissenting report to the legislature, particularly deploring the division of the committee on party lines in the final vote on the proposed bill.¹⁰⁶

The report stated

It is to be regretted that it has been deemed politic by the majority of the joint committee to abandon all idea of educational unification upon the lines of public expectation, and to substitute therefor a plan of educational centralization under reprehensible partisan control. . . .¹⁰⁷

The minority report objected further to the reduction of the number of regents, certain to result in a greater degree of subservience to party consideration, and the provision that the commissioner need not be a resident of the state, which the minority believed to be a reflection upon the qualities of educators of the state, and which seemed to indicate that a candidate had already been determined upon. The report also objected to the provision by which members of a legislature having but one year left in office would elect a commissioner for a six year term. Election for such

¹⁰⁵Ibid., pp. 222-228.

¹⁰⁶Ibid., p. 240.

¹⁰⁷Ibid., p. 241.

a term, plus election of the regents for indefinite terms, the report asserted, is "an ingenious but none the less vicious method of depriving the people of the state of all its power in the matter of educational control."¹⁰⁸ The report concluded,

The appeal of the people that our school system be lifted out of politics, has been answered by attempting to place it deeper in the mire of petty partisan intrigue and control. There remains, however, to the people the power to work their will in this regard, and we confidently hope for and expect its prompt exercise. No more patriotic purpose . . . remains to be accomplished by the people of this State.¹⁰⁹

The report included a draft bill almost identical with the Stevens proposal of January 13, and described on pages 374 and 375.¹¹⁰

In his annual message for 1904 Governor Odell came out flatly for a line of demarcation removing the academic departments from any control by the superintendent. He also urged the modification of the school laws to require a three year academic course as a minimum requirement for state aid as an academic department.¹¹¹

¹⁰⁸Ibid., p. 242.

¹⁰⁹Ibid., p. 243.

¹¹⁰New York (State), "Minority Report of Special Joint Committee on Educational Unification," Senate Document No. 27, 1904, pp. 5-12.

¹¹¹New York (State), Messages from the Governors, ed. by Charles Z. Lincoln (Albany: J. B. Lyon Co., 1909), X, p. 604.

On February 3, the majority bill was introduced into the legislature, with a title declaring the purpose to be

to provide that "the University of the State of New York" shall be governed and its powers exercised by eleven Regents, and to provide for their election, and to provide for a department of education and the election of a commissioner of education.¹¹²

The proceedings indicate that the Senate intended to have the matter over with in a minimum of time. The bill was in the first instance reported to the committee of the whole, then to the committee on public education.¹¹³ When the latter reported it favorably a week later it was restored to the committee of the whole, which two days later made it a special order for the following Monday, February 15.¹¹⁴ On that day the committee of the whole reported in favor of passage of the bill, and the following day it was ordered engrossed.¹¹⁵ On February 17, to avoid the requirement that the bill be on the members' desks for three days, Governor Odell certified the necessity for immediate passage.¹¹⁶ After three attempts by Senator Grady to amend the bill had been turned aside, it was passed 28 to 18, the members lining

¹¹²New York (State), Senate Journal, 1904 (Albany: Oliver A. Quayle), I, p. 99.

¹¹³Ibid., p. 99.

¹¹⁴Ibid., pp. 153, 176-177.

¹¹⁵Ibid., pp. 183, 195.

¹¹⁶Ibid., pp. 209-210.

up exactly as they had on the last two Grady amendments.¹¹⁷

Sent to the Assembly the day after passage by the upper house, the bill was reported February 19 for passage without amendment.¹¹⁸ On the twenty-second it was made a special order for the following day, when it was subjected to a flurry of attempted amendment, three being offered by Palmer, and one each by McKeown, Hornidge, Daly, Cahn, and Ellis. After these hazards had been safely surmounted the bill passed the lower chamber by a vote of 94 to 45.¹¹⁹ It became a law by the signature of the governor on March 8.¹²⁰

During the period of consideration in the legislature, Mr. Bardeen and the Associated Academic Principals led a vigorous campaign against the bill. The legislative committee of the principals' association pressed its members to write members of the legislature urging defeat of the measure.¹²¹ Bardeen termed the bill in an editorial the "Politification Law," and quoted Chancellor Doane as saying that the bill provided for "nullification of the board of regents, and for politicalization of all educational depart-

¹¹⁷Ibid., pp. 209-213.

¹¹⁸New York (State), Assembly Journal, 1904 (Albany: Oliver A. Quayle), I, pp. 380, 430.

¹¹⁹Ibid., pp. 457, 476-483.

¹²⁰New York (State), Session Laws, 1904 (Albany: J. B. Lyon Co.), I, p. 94.

¹²¹"Protest of Academic Principals" (letter), School Bulletin, XXX (Feb., 1904), p. 104.

ments of the state." In the same editorial Bardeen referred to the bill as "a piece of vicious political legislation for selfish partisan purposes."¹²²

Obviously the opposition resulted from the fact that the bill provided for the reduction of the Board of Regents from nineteen to eleven members, eliminated life tenure, and called for the election of the commissioner of education by the legislature, not by the regents. A further objection resulted from the provision in section four, abolishing the offices of the superintendent and the secretary of the regents, and transferring power which the board had previously exercised over elementary and secondary schools, to the commissioner. These objections were the same arguments advanced earlier by those who wished the department abolished and all power centered directly in the Board of Regents, preferably unchanged in any way.

The new law provided that the terms of the present board should expire on April 1, after the election of the eleven regents who would constitute the new board. Ex officio regents were eliminated. The eleven regents were to be elected for terms ranging consecutively from one to eleven years, from those who were then members of the board, with so far as possible, one from each judicial district. Successors of those so elected would hold office for eleven

¹²²"The Politification Law" (editorial), School Bulletin, XXX (Mar., 1904), p. 127.

years. A district not represented should be considered in filling any vacancy.¹²³

The law required the legislature to elect within ten days a commissioner of education, not necessarily a resident of the state, for a six-year term with an annual salary of \$7,500 plus \$1,500 for expenses. A successor to the first commissioner was to be elected by the board.¹²⁴ The commissioner, in addition to supervising elementary and secondary education, was to act as executive officer of the Board of Regents. He was given power to create such departments as he thought necessary, and to appoint deputies and heads of departments, subject to approval of the board. The commissioner might also, subject to approval of the regents, fix salaries. Aside from these limitations, the board had all the powers it formerly possessed, plus the legislative power to make all rules and regulations for putting the law into effect. The power of the regents over colleges, universities, professional and technical schools, libraries and museums was continued.¹²⁵

All appropriations formerly made on certification of both the superintendent and the regents were now to be apportioned on certification of the commissioner.¹²⁶

¹²³Session Laws, 1904, I, pp. 94-95.

¹²⁴Ibid., pp. 95-96.

¹²⁵Ibid., pp. 96-97.

¹²⁶Ibid., p. 97.

On March 9, the day following approval of the unification law, the legislature elected Andrew S. Draper to the new office of commissioner of education for the six-year term to begin April 1, 1904. On the same day the legislature elected the eleven regents provided for in the law.¹²⁷

Table VIII gives the result of the balloting for members of the new Board of Regents.

TABLE VIII

REGENTS ELECTED UNDER THE UNIFICATION LAW, WITH JUDICIAL
DISTRICTS REPRESENTED AND TERM OF YEARS*

District	Name of Regent	Home	Term
1	Whitelaw Reid	New York	9
1	Charles A. Gardiner	New York	6
1	Edward Lauterbach	New York	7
1	Eugene A. Philbin	New York	5
2	St. Clair McKelway	Brooklyn	2
3	Albert Vander Veer	Albany	1
3	Charles L. Francis	Troy	11
5	William Nottingham	Syracuse	3
6	Daniel Beach	Watkins	4
7	Pliny T. Sexton	Palmyra	10
8	T. Guilford Smith	Buffalo	8

*"New Board of Regents" (editorial), School Bulletin, XXX (Mar., 1904), pp. 127-128.

It will be noted that with district one represented four times and district three twice, district four had no

¹²⁷New York (State), "First Annual Report of the State Education Department," Assembly Document No. 45, 1905 (Albany: State Education Department), pp. 18-19.

representation.¹²⁸

Mr. Bardeen paid tribute to the newly elected commissioner in his issue of March, 1903, but said that Dr. Draper "risks a great deal in coming back to New York to administer this law."¹²⁹ However Bardeen accomplished a complete and hearty break with his recent attitude in the following issue, in which his leading editorial was captioned "The Schools ARE out of Politics." Bardeen added the opinion that "few inaugural addresses of governors or even presidents" were "of greater significance or more far reaching importance" than the first communication of Dr. Draper to the regents.¹³⁰

Commissioner Draper's "inaugural" was indeed so framed as to put at rest the apprehensions of those who opposed the unification law. He called attention to the duty of the commissioner and the regents to unify the dual system of education, and declared that this duty was serious and required deliberate and careful treatment. He called the revision in educational machinery decisive, but felt

¹²⁸"New Board of Regents" (editorial), School Bulletin, XXX (Mar., 1904), p. 128. Regents who were legislated out of office by the bill included Chauncey M. Depew and Lewis A. Stimson of New York, Chester S. Lord of Brooklyn, William Crosswell Doane and Robert C. Pruyn of Albany, William H. Watson of Utica, Henry E. Turner of Lowville, and Charles E. Fitch of Rochester.

¹²⁹"The Opportunity and the Man" (editorial), School Bulletin, XXX (Mar., 1904), p. 130.

¹³⁰"The Schools ARE out of Politics" (editorial), School Bulletin, XXX (Apr., 1904), p. 155.

that it should be possible to effect the change without disturbance.

This creates a great educational opportunity which we shall waste if we do nothing more than save a few dollars and stop the agents of separate if not rival departments from trampling upon one another.¹³¹

Dr. Draper assumed that it was their duty to bring the parts of the educational system into "mutually helpful association" with each other. The subsequent statement was particularly calculated to allay the suspicions of those who anticipated evil from the new regime:

It will be necessary for us to supply some factors if we are to administer this law harmoniously and make the most of the educational opportunity. . . . I do not think it well that our responsibilities should be rigidly divided along the line that a severe construction of the recent statute should mark out. Bodies legislate; individuals execute. We shall invite failure if we confuse legislative and executive functions. The people of a democracy prefer that policies shall be settled by more than one person; executive functions cannot be exercised effectually by a board. . . . It seems to me that the only sound and logical course--the only course which promises agreeable relations and desirable results--lies in the exercise by the board of full directory authority and in the exercise by the commissioner of free organizing and administrative powers over all the educational work of the state.¹³²

Dr. Draper referred to the unlimited authority of the commissioner over appeals from district action, and suggested

¹³¹"Commissioner Draper's Inaugural" (editorial), School Bulletin, XXX (Apr., 1904), p. 156.

¹³²Ibid., pp. 156-157.

the possibility of providing recourse from his decisions to a recognized judicial tribunal. He further suggested that "a sound educational policy demands that we shall plan for the fullest measure of self-activity and self-management on the part of the people." A still further soothing note is found in his suggestion that possibly the schools were being over-inspected and over-directed, and the pupils in them over-examined. He regretted the need for making changes in the personnel of the educational departments, and pledged himself to making these changes on the basis of fitness only. He deprecated the charges of politics which had been flung at the new system, and asserted that no changes would be made which were not supported by the consensus of educational opinion.¹³³

Dr. Draper's closing paragraph was at the same time a noble statement of principle and an humble plea for assistance:

I am here without any manner of assurance concerning any policy or appointment. I shall keep my freedom. I shall make mistakes. I shall not refrain from doing because of the possibility of mistakes. I will act when the time comes in each case with all the information I can get, and with the best judgment I have. When mistakes are discovered I will correct them openly. I will welcome fair criticism, and heed it. I shall need consideration, and I crave it. The circumstances claim all that is in me; and it is my very earnest purpose to do an unselfish, and, I hope, a distinctive educational

¹³³Ibid., p. 157.

service to the Empire State.¹³⁴

It is a fair assumption that this direct and open statement of policy and principle was a major factor in establishing the new educational regime on a firm footing. It reveals the moderation and wisdom which had made Dr. Draper's administration of the department of public instruction in the late 1880's one of the most peaceful in the whole period covered by this study, and justified his selection for the difficult task of establishing the new administration. Mr. McKelway's Daily Eagle referred to his communication as an "epoch-making address" and said further:

It is the expression of an honest, thoughtful, earnest and unselfish mind. Without cant and without pretense, it at once commands not only attention, but respect.¹³⁵

The favorable impression made by Dr. Draper's initial statement was reinforced by the plan of organization which he prepared for presentation to the regents at their meeting on April 6. The commissioner proposed classifying the work of education for administrative purposes into the familiar areas of elementary, secondary and higher education, and suggested that each area be administered by an assistant commissioner. The first assistant should have charge of

¹³⁴Ibid., p. 157.

¹³⁵Brooklyn Daily Eagle, Apr. 8, 1904, cited in "An Epoch-Making Address," School Bulletin, XXX (Apr., 1904), p. 169.

higher education, including professional and technical schools, the state library, and the museum. The second assistant should have as his province secondary education and training of teachers for secondary schools. The elementary schools and the preparation of teachers for them should be under the jurisdiction of the third assistant commissioner. All three commissioners should have equal rank and the same salary of \$5,000.¹³⁶

To carry on the professional and clerical work of the department, the commissioner proposed the establishment of nine bureaus: law, examinations, inspections, accounts, printing and publications, statistics and apportionments, normal schools and other training activities, libraries, and scientific work and museums. He proposed that each bureau be headed by a director nominated by the commissioner and approved by the regents. The remaining portions of the report were composed of suggestions for implementing the proposals outlined.¹³⁷

After hearing Commissioner Draper's initial statement, the Board of Regents adopted a resolution designating him as their chief executive officer, with the right of initiative in making plans, but with the proviso that such plans should not be put into effect without the approval of the

¹³⁶"Proposed Plan of Organization" (editorial), School Bulletin, XXX (Apr., 1904), p. 157.

¹³⁷Ibid., pp. 157-158.

board. The resolution further conferred on him any executive and initiatory powers which he might not have under the statute.¹³⁸ The board elected Mr. Reid chancellor and Mr. McKelway vice-chancellor, and unanimously confirmed Commissioner Draper's appointments to the subordinate positions.¹³⁹

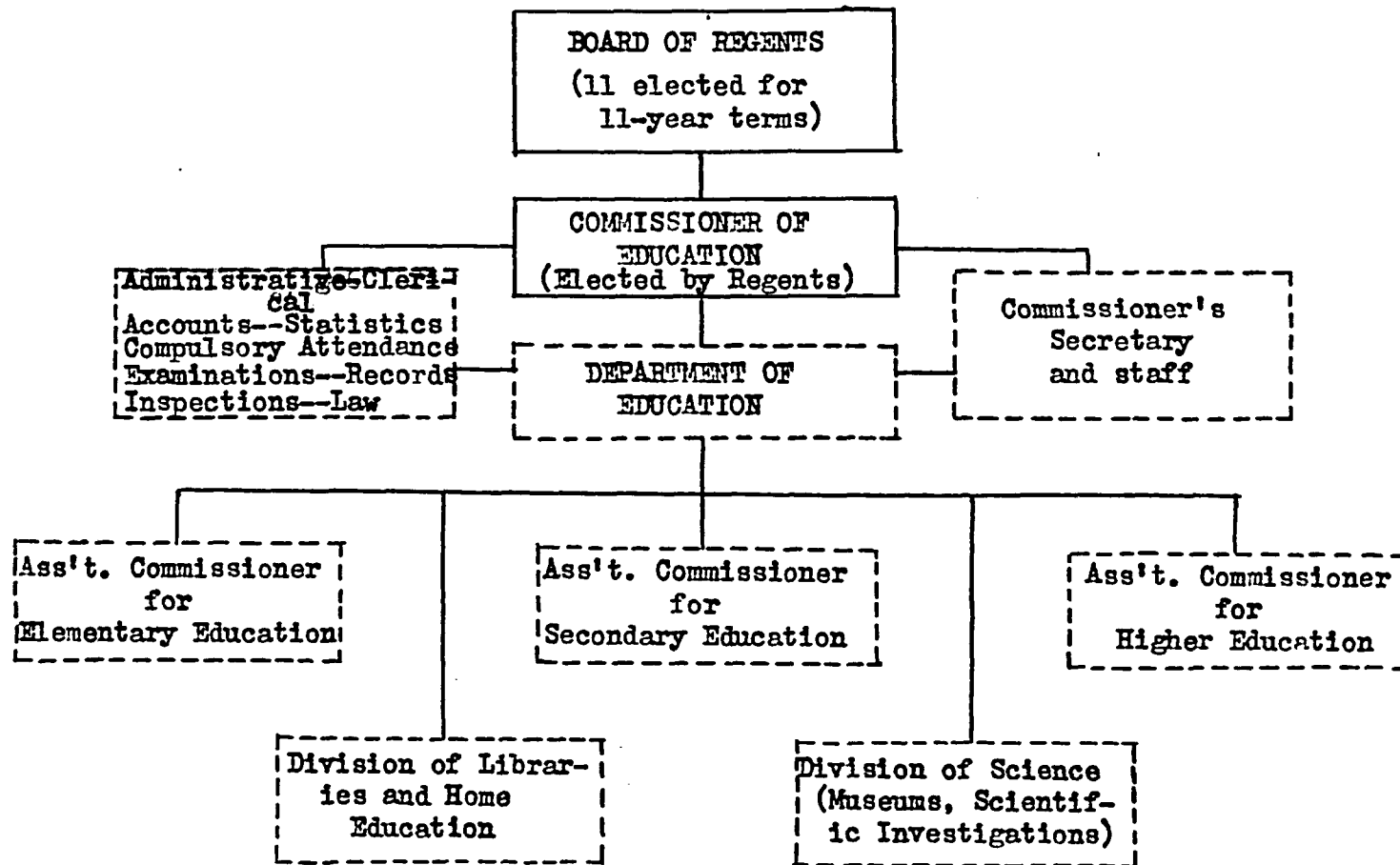
We see, with the organization of the State Education Department under Commissioner Draper, the close of more than a century of dual control of education, and of fifty years during which the co-ordinate departments were frequently at odds with each other over policies and powers. An effort is made in Figure 3 to represent by a diagram the relationships existing under the new law.

¹³⁸New York (State) University, Minutes of the Regents of the University, 1904 (Albany: University of the State of New York), XII, pp. 25-31.

¹³⁹"Dr. Draper's Appointments" (editorial), School Bulletin, XXX (Apr., 1904), p. 173.

FIGURE III

EDUCATIONAL ORGANIZATION UNDER THE UNIFICATION ACT OF 1904



(Solid lines indicate statutory offices; dotted lines those established under Commissioner Draper's plan of organization)

CHAPTER XI

CONCLUSIONS

From the evidence which has been examined and presented in this historical study, the following conclusions seem reasonable.

1. In the early years of educational development the legislature was satisfied to separate the control of the lower schools from the supervision of the higher institutions.

2. Educational progress and the development of the high school tended to break down the strict line of demarcation between the two levels of education, and to alter the position of the regents. This process in turn was somewhat retarded by the strong position of the academy in New York, which resulted in a later appearance of a full-fledged state secondary school system.

3. Friction which developed between the two divisions of the educational system had several aspects:

a. Carelessness in drafting the basic educational laws, resulted in overlapping jurisdiction.

b. This overlapping of jurisdiction resulted definitely in duplication of effort in inspecting, reporting and apportioning of funds.

c. Part of the friction resulted from the person-

alities of the individuals who held the office of superintendent. We have indicated that there were friendly relationships during the two terms of Superintendent Draper, but there was friction both before and after his tenure of office.

d. Friction was aggravated by the presence of the superintendent on the Board of Regents, especially when he was engaged in criticizing the board.

4. The fact that the superintendent was elected by the legislature for a relatively short term, three years, tended to make him conscious of what could be done to attract support from the lawmakers. Among a certain class of legislators, a sure way to do so would be to attack the Board of Regents as the representatives of aristocratic, entrenched authority.

5. The politics which were played in the department seemed to be politics designed to strengthen chances of reelection, rather than politics in the usual sense of party maneuvers.

6. The Board of Regents was attacked from other sources, for several reasons:

a. It had failed to establish the university which the law had seemed to envisage. The common idea that a university should be a visible entity resulted in attacks from some quarters.

b. The life tenure of the regents was reason for

suspicion to some people.

c. The regents were regarded as aloof from the schools, and aristocratic in their nature.

d. The members of the board were considered laymen unacquainted with educational problems.


e. Some critics were opposed to any form of tax-support or aid to higher education.

7. The university and the Board of Regents came very close to being eliminated in 1870, but were saved by influence brought upon the governor.

8. The strength of the regents and their supporters is shown by the failure of two constitutional revision conventions to eliminate the board, and the action of the convention of 1894 in according it constitutional status.

9. Unification as a desirable end, and a possible means of ending the educational friction was suggested as early as 1867, but the principal disagreement then, as throughout the period of friction, was how to accomplish it.

10. The regents were able to command strong support whenever the debate over unification, or the elimination of one department, seemed to threaten their time-honored position. This support came chiefly from conservative elements interested in maintaining the status quo, as well as from the professional organizations of the state. Support could generally be expected from the State Teachers' association, the Council of School Superintendents, the Commissioners



and Superintendents' association, and particularly from the Associated Academic Principals.

11. Plans and proposals for unification generally fell into two types: to give further power either to the superintendent or to the regents; and conversely, to eliminate one or the other.

12. As the controversy progressed into its later stages, there were signs of an increasing tendency to criticize the regents, either because of fear of the influence wielded by such members as Depew, Reid, or McKelway, or because of a possible feeling that the influence of the board was increasing too greatly.

13. Actual accomplishment of unification, aside from the legislative aspects, resulted from the appointment and the personality of Draper, and his immediate moves to establish a definite pattern of relationship with the board.

An interesting subject of speculation, which would be difficult to document, involves the experience of individuals with regents' examinations, and the possible influence of that experience on their attitude toward the board. It is certain that one of the most commonly mentioned objections to maintenance of the regents was their administration of examinations, and the injustice of apportioning funds on this basis.

However, as we have stated in the general introduction to this study, the Board of Regents is a powerful and

familiar, as well as time-honored institution in the state's educational history. We believe that the study we have made of the factors which indicated its influence, as shown by its survival of the attacks made upon it, constitutes a necessary contribution to the educational history of the Empire State.

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APPENDIX I

Excerpts from 1866 Reports of School Commissioners Relating to Effects of Rate Bills

(Source: Annual Report of Superintendent of Public Instruction, 1866, pp. as indicated)

Cayuga county, First District, Israel Wilkinson:
"The new school law is deservedly popular; it is a long step in the right direction; and when the Legislature will allow the 'rate-bill' to be stricken out, we shall have a school system in every respect worthy the Empire State."
(p. 117)

Chenango county, Second District, Henry G. Green:
"I think the attendance at school is affected, to some extent, by rate-bills; although the want of interest on the part of parents, in the welfare of their children, serves to make the attendance much less than it would be. . . ."
(p. 131)

Columbia county, First District, H. Reynolds: "Our opinion is somewhat changed, relative to rate-bills. Make the schools free and there would be a demand for better teachers. Now, many trustees fear to hire good teachers, lest the attendance may be small, and consequently, high rate-bills."
(p. 143)

Essex county, First District, Isaac D. Newell: "My experience for the past year has led me to change my mind in reference to rate-bills; they never increase the attendance, while they often diminish it."
(p. 157)

Essex county, Second District, B. B. Bishop: "A large proportion of the districts have raised rate-bills during the past year, and I hear but little fault found with the practice."
(p. 161)

Greene county, First District, S. S. Mulford: "From the information I have been able to receive, I can not believe that rate-bills prevent the attendance of scholars to any great extent. A few districts may find fault,

generally by way of excuse for employing cheap teachers. .
 . . " (p. 165)

Greene county, Second District, George C. Mott:
 "These make a material difference, in some districts, in the attendance and the number of days taught during the year. There would be far better attendance, and a greater length of time taught, if the schools and textbooks were free to all." (p. 168)

Hamilton county, Charles S. Smith: "The 'rate bill' system is unpopular; and I feel justified in saying, that in the majority of districts, it has had the effect to diminish the number in attendance; and to secure the employment of a teacher, (and in many cases low-priced ones at that) just long enough to entitle them to the public money. There are a few marked exceptions to this rule." (p. 172)

Herkimer county, Second District, O. B. Beals: "Our opinion . . . is that rate-bills in the majority of cases operate injuriously upon the best interests of our common schools, and this idea is gaining ground in this district." (p. 174)

Livingston county, First District, S. Arnold Tozer:
 "While, upon the average, a man may send his children to school by the payment of the labor of one day and a half in each year, still the rate-bill is the first consideration in school matters. Teachers of questioned ability will sell their time . . . to go through the routine of school duties, and take, as a compensation, a sum hardly sufficient to pay their store bills. The dread of a heavy rate-bill is the pretext for employing that class of teachers." (p. 189)

Montgomery county, T. S. Ireland: "I am not prepared to say to what extent rate-bills affect the attendance; in some districts, I have no doubt that children are kept from school to avoid paying a rate-bill, but generally they are paid cheerfully, if the money has been earned." (p. 216)

Niagara county, First District, J. F. H. Miller:
 "No serious complaint of the rate-bill system has come to my knowledge." (p. 225)

Oneida county, First District, Harvey E. Wilcox:
 "In some localities, the attendance is diminished in consequence of rate-bills; but, generally, people are becoming more in favor of them." (p. 228)

Oneida county, Second District, Charles T. Pooler: "Operate badly in some districts, by causing 'cheap teachers' to be hired. . . . Occasionally a poor family that should have been exempted, and sometimes one not so poor, will keep their children from school for fear of the rate-bill. Yet, as no system of schools can be perfect, these ills are perhaps less than what would arise under a free system sustained by a general tax." (p. 232)

Orange county, First District, George K. Smith: "I am not prepared to say, that if all the schools were free, the aggregate attendance would be materially increased at once, although in time it would very naturally have that result. Ignorant and stupid parents will let their children run wild, whether they are obliged to pay for their schooling or not. As I reported last year, 'best schools pay the largest rate-bills'." (p. 245)

Orange county, Second District, John J. Barr: "As nearly as I can find out by careful inquiry, rate-bills have a tendency to reduce the attendance in our common schools. . . . They have a tendency to . . . make the trustees extremely cautious about hiring well qualified teachers. . . . This rate-bill is one of the greatest curses that rests upon the schools of the Empire State." (p. 248)

Putnam county, Second District, William Townsend: "I think the effect of rate-bills has a tendency to stimulate, rather than hinder a good attendance. This may be seen from the fact that in those schools which are supported almost entirely by the public money, the inhabitants care less about the kind of teacher they have, or the regular attendance of their children, than those who pay larger rate-bills." (p. 271)

St. Lawrence county, Second District, Clark Baker: ". . . provide against the fear of rate-bills and you will have a law best calculated, in my judgment, to secure the attendance of the children at school." (p. 289)

Saratoga county, Second District, Thomas McKindly: "In most places, no detriment to the school, on the principle that what costs something we value, My observation is, that where the rate-bill is the largest, there are found the best teachers, the longest term, the most regular attendance, the best school. The effect of the rate-bill is to keep the attention of the public drawn to the schools, the kind of teachers employed, and economy in the expenditure of money." (p. 297)

Schenectady county, Rural District, Nelson T. Van Natta: "Rate-bills, in my opinion, do not materially affect the attendance. Our schools which pay the highest rate-bill have the smallest attendance. The want of interest in the inhabitants, and of thorough and live teachers in our schools, affects the attendance more than anything else." (p. 310)

Schoharie county, First District, Bartholomew Becker: "The people are generally in favor of the present rate-bill system. The trustees generally exempt all indigent persons from the payment of teachers' wages, or some part thereof, so that all indigent children have the privilege of attending school and becoming educated." (p. 312)

Schoharie county, Second District, A. C. Smith: "I am more and more convinced that the present system of paying a balance of teachers' wages by rate-bill has a tendency to decrease the attendance at school, by frightening many who seem to think that every absent-mark on the school register will exempt them from the payment of a certain sum of money. . . . It is true that there are many parents who consider themselves too poor to pay a rate-bill, and who are too proud to claim exemption, and, as a natural consequence, their children are allowed to grow up in ignorance." (p. 315)

Ulster county, First District, Edgar Eltinge: ". . . Although the attendance is affected, yet I cannot say that the popular sentiment is wholly in opposition to a rate-bill. But . . . I am constrained to believe, that where the taxable property of the district is made to bear the expenses of a school, a greater interest is manifest in the cause of education, and, as a consequence, better schools are sustained." (p. 350)

Washington county, First District, D. V. T. Qua: "Rate-bills, I am convinced, in some measure affect the attendance at school. I have known cases where children have been withdrawn from school in consequence of the supposed high wages paid a good and efficient teacher, thereby destroying the school, and compelling the trustees to employ cheaper teachers in order to reduce the rate-bills." (p. 357)

Washington county, Second District, Thomas S. Whitmore: "I think the anticipated burthen of rate-bills does not so much diminish the attendance of pupils during the term that school is kept, as it tends to shorten the term of school in the year, and causes trustees to seek and employ low priced teachers. . . ." (p. 363)