

in the meaning of the proviso, and is not abolished. Districts organized under laws, general or special, by which their schools were subjected to the supervision of other officers than their own, have ceased to exist. There may be exceptions, founded on laws or circumstances, that do not come into consideration in this case ; but the general rule is based on the distinction between districts that were special in the sense of being by law specially independent, and fully officered for the supervision and management of their schools, and others that were subordinate in the sense of being subject to school supervision by officers not peculiarly their own. It follows that the mere establishment of a high school, or of graded schools, or a mere union of districts, under general or special law, did not exempt a district from abolition, and that districts organized under the Portsmouth, Newington, Somersworth, or Concord acts, in their special or general forms, or under Gen. Laws, *c.* 86, *ss.* 2, 3, or *c.* 87, *ss.* 16-22, retain their organization, unless they choose to abandon it and unite with the town district.

Injunction refused.

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

PEARSON *v.* NORTHERN RAILROAD & *a.*

Ordinarily the question whether a supplemental answer in chancery shall be rejected on motion of the plaintiff, being one of convenient procedure, is to be determined at the trial term ; but the whole court, in a plain case, may revise the decision there made.

This is the same case decided at the June term, 1883, reported in 62 N. H. In the original bill, it was alleged, among other things, that the directors of the Concord Railroad, one of the defendants, of whom some were directors also of the Northern and Concord & Claremont railroads, other defendants, had, collusively, agreed to allow and pay certain fraudulent claims of those corporations against the Concord Railroad ; and the plaintiff, prosecuting the bill for himself and the stockholders of the latter corporation, sought an injunction against the allowance and payment of the claims. Since the decision and disposition of the case, the Northern and Concord & Claremont railroads have filed supplemental answers, and seek a decree against the Concord Railroad for the adjustment and payment of those claims. At the trial term the plaintiff moved to reject the answers because they were not within any equitable rule of chancery practice, and were made after the

final disposition of the case. The motion was denied, and the plaintiff excepted.

Bingham & Mitchell, for the plaintiff.

W. L. Foster, for the Northern and Concord & Claremont railroads.

ALLEN, J. The question is one of convenient procedure, and the trial of the issues on the supplemental answers in the case would be so inconvenient that the answers ought to be rejected. *Clough v. Fellows*, ante 134. Ordinarily the question of convenience is to be determined at the trial term. But in this case, as in *Clough v. Fellows*, the inconvenience is so plain, the motion to reject the answers should have been granted.

Exceptions sustained.

SMITH, BLODGETT, CARPENTER, and BINGHAM, JJ., did not sit: the others concurred.

SARAH A. BARTON v. PROVIDENT MUTUAL RELIEF ASSOCIATION.

JAMES W. BARTON AND BETSEY T. BARTON v. SAME.

Where the by-laws of a mutual benefit association, in the nature of a life insurance company, provide that upon the death of a member the benefit shall be paid to his direction, the member may change the beneficiary by surrendering his certificate of membership and procuring a new one made payable to the person therein named.

The first case is covenant broken, to recover \$2,000 as a benefit payable upon the death of George C. Barton. The second is assumpsit to recover the same benefit.

Facts agreed. August 16, 1881, George C. Barton made application to the defendants for membership. In this application was the following: "I wish this benefit to be paid to my wife, Sarah A. Barton." A certificate of membership, in due form, was issued to him August 17, 1881, numbered 1,629, which contained the following: "In accordance with the provisions and laws governing said association, a sum not exceeding \$2,000 will be paid by the association as a benefit, upon due notice of his death and the surrender of this certificate, to such person or persons as he may, by entry on the record-book of the association, or on the face of this certificate, direct said sum to be paid, provided he is in good standing