under the authority of the School Trustees) that the estimate never was laid before the Town Council. We take the only question which we are to dispose of on this objection to be, whether the defendant had a continuing authority to collect and enforce payment of these taxes when he made the distress.

The facts are, simply, that he was duly appointed collector of the municipality for the year 1865–1866. This, as regards 1865, is conceded, both by the form of the objection and the argument used in support of it, that the time for returning his roll was not extended. He received the two rolls spoken of in 1865, and he held them both in 1866, when he made the distress.

The plaintiff contends that, under these circumstances, as the Statute required him to return his roll on the 14th of December, 1865, he became *functus officiq*, at least as regarded the compulsory powers of enforcing payment.

On the other hand, the defendant relies on the 174th section of the Municipal Act: "The Chamberlain or Treasurer may be paid a salary or percentage, and all officers appointed by a council *shall hold office until removed* by the council."

The case of *Newberry* v. *Stephens* (16 U. C. R. 65), appears to us to be in the defendant's favor, though the Court were not unanimous. But Robinson, C.J., and Burns, J., both held that the collector for 1865, who was again collector for 1866, could in the latter year enforce by distress payment of rates imposed in 1855, though at the time he distrained there was no resolution in force extending the time for him to return his roll. This decision does not appear to be rested either on the ground that the same person was the collector for both years, or that there had been an extension which expired before, and that another extension was made after the distress was made. If the collector was *quoad* the taxes of 1855 *functus officio* on the termination of the first extension, he was without authority when he distrained. The subsequent extension could not have an *ex post facto* operation.

This Court acted upon *Newberry* v. *Stephens*, or at least in accordance with its principle, in the *Chief Superintendent of Schools* v. *Farrell* (21 U. C. R 441); and the Court of Common Pleas recognized its authority in *McBride* v. *Gardham*, (8 C. P. 296.)

On these authorities, we think this objection untenable.

There remains only the fourth objection. So far as it regards the not setting down the plaintiff's name in full, it was, we think, properly given up on the argument; but strong reliance was placed on the allegation that the two collector's rolls show that the amount which is chargeable against the plaintiff is not put down in either as a "Town Rate," nor is it otherwise shown for what purpose he was assessed.

Each of these rolls is headed "Collector's Roll for the Town of Belleville," and to this heading is added in one roll, "Town Purposes," in which in the column headed "Town or Village Rate" nothing is entered; but in another column headed "Total Taxes. Amount," are inserted the figures "$40."

In the other there are added to the general heading the words "School Purposes," and there is a column headed "General School Rate," in which are added the figures "$16," and in the column headed "Total Taxes. Amount," there is nothing entered. In each roll the names James Blacklock and C. L. Coleman are entered, and the property and the valuations thereof are alike in each.

We are constrained to the conclusion that this objection has not been displaced. Treating the two rolls as constituting in law one collector's roll, this one roll constituted his sole authority in the nature of a warrant to compel payment, and it ought to show the several taxes which constituted the aggregate amount, stated in the manner directed by the 89th section of the Assessment Act. And according to that section the amount with which a party is chargeable in respect to sums ordered to be levied by the Town Council "*shall be*" set down in a column, to be headed "Town Rate," and in a column to be headed "School Rate" shall be set down any school rate. Now, although there is in each of these rolls a column properly headed for a town rate, no amount is set down under this heading in either. In one the sum $40 is set down in the column headed "Total Taxes," in the other the sum $16 is entered in a column headed "General School Rate," and no entry is made as to amount in any other column, so that, blending the two, we have a roll charging in the school rate column $16, and in the total tax column $40, but not showing, except as to the $16, for what purpose the difference is charged. And if we treat them as separate rolls, the roll headed "Town Taxes" has no amount charged except in the column headed "Total Taxes"; and the school purpose roll appears to have been made out by the Town Clerk of his own proper motion—not directed by the Board of School Trustees, if indeed they had any control over him, or authorized by the Town Council, who are not proved to have had the estimate of the Board of School Trustees ever brought under their notice.

In neither way, as appears to us, can this distress be upheld. As regards the town tax we see no reason for a doubt. As to the school tax, we endeavored to find a sufficient ground for upholding it, es levied under a separate roll issued under the authority of the trustees, and distrained for by the defendant as their collector, appointed by resolution, as was stated in evidence But the 12th sub-section of section 79 of the School Act only gives the power of trustees of common school sections in townships to Boards of School Trustees in towns, to levy rates on the parents or guardians of children attending a school under their charge. The facts of this case do not bring it within that provision.

The learned Judge in the County Court seems to have relied on a *dictum* in the judgment in *Spry* v. *McKenzie* (18 U. C. R. 165), to the effect that a bailiff would not be liable as a wrongdoer for executing a warrant legrl on its face, and made to him by public officers who had authority to make such a warrant by Act of Parliament. That was an action of replevin for a horse, under our Statute, which authorises that form of suing wherever trespass or trover would lie, brought against the defendant, who pleaded that a collector of school taxes, under a warrant from the school trustees, had seized the horse and placed it in his hands as an innkeeper. But there was no avowry, only this plea by way of justifica-