

appealed to, declared the election illegal, considering the Section had become a new Section ; and appointed another election to take place on the 16th, when the three defendants were appointed Trustees. In January, 1855, the dispute was renewed and elections held, so that there were two sets of Trustees claiming the office. The first elected Trustees in 1854, abstained from acting ; and the defendants imposed a rate, which the plaintiff resisted.

*Held.* (affirming No. 18, *Chief Superintendent, in re Trustees*, No. 2, *Moore v. McRae*, 12 Q. B. R. 525,) that the alteration did not constitute the Section a new one ; but that the rate was legal, being imposed by Trustees *de facto*, who had not been removed.

*Quære*—Whether such alteration could be made by resolution only.

*Quære*, also—Whether the decision of the Local Superintendent can be thus incidentally reviewed in an action to recover back the rate.—*Chief Superintendent Appellant in re Gill v. Jackson et al.*, 14 Q. B. R. 119.

(26) *If two Sections be united, in rearranging the School Sections of a Township, an election of three Trustees is necessary.*

In the township of Harwich, prior to February, 1854, School Section No. 1 consisted of the Town of Chatham and a part of the Township ; there was also a School Section in operation, known as section No. 2½. In February, 1854, the Township Council passed a resolution dividing the Township into sixteen School Sections. No. 1 (of the new sections) was formed of that part of the Township of Harwich, which, together with the Town of Chatham, had previously been No. 1, added to the whole of 2½ as it existed previously.

In January, 1855, an election for the new Section No. 1 (as created by the resolution of February, 1854) was held, at which one trustee only was elected, and the two other trustees elected the previous year for the then section gave defendant the warrant under which he acted.

*Held*, That there should have been three trustees elected for Section No. 1 at the election in January, and that a warrant