accordance with common law principles, may well be called clandestine. If the decision of the Judge were to have any weight it might condemn or operate injuriously against a party affected by the question, without his being heard —an infringement on the first principles of common justice.

But suppose a case laid before and acted upon by a Judge—what is to be the legal effect of his "decision?" What does it adjudicate? Between whom does it decide? Will parties be justified in acting on such a decision? Will it oust the courts of jurisdiction upon action brought respecting the same subject matter? Will it preclude the parties injured, or supposing themselves injured, from seeking redress through the ordinary tribunals? Surely not. What then — is the Chief Superintendent really authorized to take opinions upon abstract questions and supposed or possible cases, and the Judges to pronounce upon and explain "the true intent and meaning" of the language, or to trace out the proper procedure for the Chief Superintendent, in the exercise of his very large powers? In other words, is Sir John Beverley Robinson, or Chief Justice Draper, for example, to write a treatise upon the muddy portions of the School Act for the Chief Superintendent of Education?

Judicial opinions are not given *ex parte*, nor without hearing all parties concerned, and judicial decisions are not made upon such foundations. What then is meant? Surely not that the Chief Superintendent may quietly obtain and privately keep in the archives of his office the secret opinions of the Judges? That can hardly be: it would humble the Judges to the dust.

But, secret or open, there is an additional objection to taking the opinion of any Judge in the way proposed. It places him in a false position; and a Judge who is committed by a deliberately pronounced opinion does not often alter it. We do not mean to say that any opinion would be adhered to from improper motives; far from it. But there is a certain feeling incident to our common nature, though the individual may be insensible to its influence, which would render it exceedingly dangerous to the due administration of justice that a Judge should (on the mere motion of an irresponsible agent, whenever such agent deems it expedient) be placed in a position of saying to-day what it may be to-morrow argued that he was wrong in saying.

Why should a Judge be thus committed to an opinion upon "a case," without the advantage of having that case sifted and debated before him previously to his being called upon for a decision?

Let us not be understood, from what we have said, as assuming that any one of the Judges would feel it to be his duty, or that he was acting in the execution of his judicial powers, for which alone he was appointed, in furnishing materials to enable an oracle of the Common School Law to propound dogmas or give responses to the enquiring public. We unhesitatingly say that the man who penned that clause is a dangerous man, or is grossly ignorant of the fundamental principles of law. Nothing can be more constitutionally dangerous or foreign to the genius of the laws of England than requiring a Judge to give an opinion to any person or department on any matter not formally in litigation. No person or officer should be allowed to act on any opinion given as to a case that *might* arise. If the School Department may obtain a judicial opinion, why not the Crown Law Department, the Finance Ministers' Department, or any branch of the Executive, before engaging in some criminal prosecution or political scheme? But our space will not permit us to pursue this view of the matter further at present. So having opened the question to our readers, and especially to our professional readers, let us add: We have been speaking of what the framer of the 23rd section may possibly have had in his wise head, namely, to make it "competent" for the Chief Superintendent to submit a case to any Judge of the Court of Queen's Bench, the Court of Common Pleas, or of the Court of Chancery in Upper Canada. But we venture to doubt (if such was the object) that it has been attained—to doubt that such is the meaning of the clause—and gravely to doubt that it is capable of being acted on at all, and, even if otherwise perfectly unobjectionable, that a Judge of any of the three named Courts would feel that he was acting with authority in deciding any such case, or that he had any jurisdiction in the matter.

The language used is, "may submit a case to any Judge of *either* of the Superior Courts," &c. We of course assume that the Courts meant are "Superior Courts" *of Upper Canada;* but as there happens to be three Superior Courts, which two out of the three are meant? It is obvious from the language used in two places in the clause ("either of the Superior Courts") that two only (and the Judges of such Courts) were intended by the Legislature to be invested with the jurisdiction, and that to two only of the three can the Chief Superintendant apply.

If the Chief Superintendant submits a case to Mr. Justice X, of the Common Pleas, can that Judge undertake to say that he is a Judge of one of the two Courts intended? or Mr. Justice Y, of the Queen's Bench, undertake to say that he is certainly a Judge of one of the two favored Courts? and the same may be said of Vice-Chancellor Z.

We find it expressly provided by enactment, to give definite meanings to certain words and expressions, that