

inhabitants, and makes the Trustees thus elected the municipal authority of each city, town and incorporated village for all school purposes. The Act also invests each school section with power to provide for the support of its own school in its own way, without any application to any Municipal Council whatever.

Such are the provisions of the present School Act in regard to free schools; the chief defect of which is, not giving Trustees of school sections the same authority to decide upon the manner of supporting their schools as is given to Trustees in cities, towns, and incorporated villages—the electors deciding upon the kind of schools they desire by the men they elect as their Trustee Representatives, but investing the Representatives of school sections with the same discretionary authority to act in the school matters for which they are elected, as is possessed by members of Municipal Councils and of the Provincial Legislature in regard to the objects for which they are elected.

Two remarks may be made in regard to the foregoing statements and references. The one is, that the principle of free schools is not peculiar to the present School Act or to any one political party in Upper Canada; but it has been introduced into two successive school acts and sanctioned by two successive administrations of government of different parties. The other remark is, that in neither Act of the Legislature has it been proposed to compel any school section or municipality to provide for the support of its school or schools in any particular manner, but simply to give the electors in each school division the power of local self-government in the matter.

In the recent discussion of the question, we have seen no answer to the arguments by which the free school provisions of the law were first submitted to the government and Legislature.

OFFICIAL ANSWERS TO QUESTIONS PROPOSED BY LOCAL SCHOOL AUTHORITIES.

Since the commencement of the last month, nearly five hundred letters have been received at the Upper Canada Education Office, at Toronto; and most of these letters involve legal questions. To lessen the increasingly onerous correspondence of the Department, and to consult the convenience of many parties, we have thought it advisable to select and insert in this and the following numbers of the *Journal of Education*, a score or two of the hundreds of answers which have been given by the Chief Superintendent to letters of local school authorities involving questions and proceedings under the school law. We will number them for convenient reference by parties concerned.

NUMBER 1.

A Townreeve inquires as to whether a Township Council can alter the boundaries of school sections without the actual consent of the majority of the inhabitants of the several school sections concerned,—remarking that if such were the case, no alterations would ever be made, however necessary, as a majority of one or other of the Sections concerned would always be opposed to such alteration. He also wishes to know whether trustees can levy and collect a rate, after the adoption by the majority of a school meeting of a resolution against “all taxation,” in order to prevent the trustees from keeping open a school longer than the public school fund would defray the expenses of it. The following is the answer to his questions:

“The object of the 4th clause of the 16th Section of the Act was not to deprive a Township Council of the power of altering the boundaries of any school section without the consent of the majority of such school section; the object of the Act was to prevent changes from being *clandestinely* made in the boundaries of school sections, without giving all parties concerned notice of any alteration or alterations proposed, that they might have an opportunity of putting the Council in possession of all they might wish to say for or against such alterations. But after all parties have thus had an opportunity of a fair hearing, the Township Council has authority to make any alterations in the boundaries of School Sections it may judge expedient, provided such alterations take effect only at the close or on the 25th December of each year, so as not to derange the calculations or proceedings of the Trustees in the course of the year. The only case in which the formal consent of the majority of the inhabitants of School Sections is re-

quisite in order to an alteration in their boundaries, is in uniting two or more Sections into one.

“2. In reply to your second question, I remark that the last part of the resolution of the School Section meeting which you enclose, containing the words “and no taxation,” is null and void, and of no more effect than if it had not been adopted; as the last part of the 7th clause of the 12th Section of the School Act expressly authorises the Trustees to levy any additional rate they may think necessary to pay the balance of the school expenses; and this rate, as the Attorney General has decided, cannot be merely on parents sending children to the school, but must be on *all the ratable property* of the School Section. I refer to what I have said on the powers of Trustees, &c. in the *Journal of Education* for October, 1851, p. 162, and for December, p. 183.”

NUMBER 2.

A majority of a School Section meeting, adopted a resolution in favour of supporting their School by taxing every man in the Section according to the number of his children between the ages of 5 and 16 years; a local Superintendent inquires if such a tax is lawful. The following is the answer returned:

“It is contrary to law to levy a rate on children of school age without regard to their attending the School; or, in other words, to tax a man according to the number of his children between 5 and 16 years of age. The School Act authorises three modes of providing for the expenses of the school—namely, voluntary subscription, rate bill on parents sending children to the school, and rate on *property*; and if the sum authorized by either of these modes of supporting the School be insufficient to defray all the expenses incurred by the Trustees, they then have authority, by the latter part of the 7th clause of the 12th Section, to levy any additional rate on the *property* of the whole Section, (not, as the Law Officer of the Crown has decided,—merely on parents sending children to the school) to provide for the payment of such expenses. I refer you to what I have said on this subject in the *Journal of Education* for December, p. 183, also in the number for October, p. 152.”

NUMBER 3.

A local Superintendent proposes eight questions, the import of which may be inferred from the following answers to them:

“1. If the Trustees of a School Section do not keep open their school, though abundantly able to do so, the constituencies that elected such persons as Trustees must suffer the consequences of their conduct, like the constituencies of an unfaithful member of Parliament or of a Municipal Council.

“2. The 4th clause of the 18th Section of the Act states the way, and the only way, in which School Sections can be divided and their school house property be disposed of.

“3. The electors who neglect to attend the annual school meeting of their Section, have no just reason to complain of any decisions of such meeting, any more than electors who neglect to vote at the election of a Councillor or Member of the Legislature, have just reason to complain of the result of such election. But by the 12th clause of the 12th section of the Act, Trustees, if they think proper, can call a special meeting for any school purpose whatever.

“4. & 5. All that an annual school meeting has power to do, is enumerated in the several clauses of the 6th Section of the Act. All else that an annual school meeting may resolve to do, is null and void, as if it had not been done. The Trustees alone, and not any public meeting, have the right to decide what Teacher shall be employed, how much shall be paid him, what apparatus shall be purchased, what repairs, &c. shall be made, how long the school shall be kept open; in short every thing that they may think expedient for the interest of the school. See clauses 4 and 5 of the 12th Section. No special school meeting called by the Trustees (and no body else has the right of calling a special school meeting) has a right to decide or discuss any other matter or matters than such as are specified in the notice of the Trustees calling such meeting, as provided in the 12th clause of the 12th Section.

“6. Each Union School Section is to be regarded as a Section of the Township within the limits of which its school house is situated, and to receive its apportionment from such Township only. The only exception is, where the children of school age in any such Section were reported for 1850 partly to the local Superintendent of one Township and partly to the Superintendent of