

sons made an assignment for the benefit of creditors in March, 1888. In action brought by the assignor and some creditors of the sons to restrain J. R. from selling, it was

*Held*, that the legal operation of the instrument of 1880 was to retain the property in the existing stock in the vendor, and to confer upon him an equitable title in the stock to be afterwards acquired, and to give him the right to take possession for default in payment. Default having been made and possession taken, that Act clothed him with the legal title in the after-acquired goods, which was not affected by the assignment for creditors subsequently executed.

*Held*, also that the instrument did not need to be registered to make it operative against subsequent creditors. The Bills of Sale and Chattel Mortgages Act, R. S. O. c. 125, was not intended to cover the case of agreements creating equitable interests in non-existing and future acquired property. The effect of the transaction in this case, and the advisability of making provision for giving publicity by registration to such dealings commented on.

*Barker v. Leeson*, I. O. R. 114, not followed.

*Reeve*, Q.C., and *Neville*, for plaintiffs.

*MacLennan*, Q.C., for defendant, Joseph Robinson.

Boyd, C.]

[April 27.

#### THE OAKWOOD HIGH SCHOOL CASE.

*High School—Application to municipality for grant—R. S. O., 1887, c. 226, s. 35.*

Prior to August 1st, 1887, the Oakwood High School Board made application to the council of the municipality for a grant of \$4,000 for school purposes, and asked further the privilege of building the new building contemplated on township property. This application was negated by the municipal council by four to one on July 18th, whereupon the school trustees present at the meeting said they would forego their claim to the benefit sought over and above the \$4,000, and would at the next meeting bring forward a by-law for the \$4,000 alone. They did so at the next council meeting, on August 8th, when a by-law authorizing the grant was voted, with the result of three votes against it and two votes for it.

*Held*, that under R. S. O., 1887, c. 226, s. 35, this was not a refusal of the application, but by the interpretation put on that section, was an affirmance and an acceptance of the requisition of the High School Board, and the council could not afterwards pass a by-law repealing it, and refuse to give the money.

Before the passing of the original of the above enactment, a municipal council had not option to reject, but were under parliamentary obligation to raise by assessment the amount required for school purposes, even though the money was to be applied towards the erection of a new building. The present legislation relieves them from this necessity only when there is a two-thirds vote of the members present at the meeting of the council for considering the by-law in that behalf. Such a by-law, if not negated by a two-thirds vote of the council, fixes the municipal district with liability to raise the amount required, and cannot be repealed, as in the case of an ordinary by-law, before it is acted on.

*Watson* and *J. M. Clark*, for the Oakwood High School Board.

*Moss*, Q.C., and *D. J. MacIntyre*, for the township of Mariposa.

McMahon, J.]

[April 25.

*In re* THE CENTRAL BANK OF CANADA AND WELLS AND MACMURCHY.

*Winding-up Act, R. S. C. c. 129—Deposit made in bank the day it closed its doors—Recovery of same—Fraud.*

Where a deposit was made in the bank on November 15th, and it was shown that at a directors' meeting, held the evening previous, the necessity of seeking outside assistance or suspending payment had been considered, and a resolution passed to suspend payment if such assistance were refused, and that when the bank closed on that afternoon, it did not open again, and notice of suspension of payment was given on the following morning, it was

*Held*, that the depositors were entitled to be repaid the amount of their deposit as obtained from them by fraud, and the liquidators were ordered to pay the same with interest from the date of deposit.

*S. H. Blake*, Q.C., for the petitioners.

*Foster*, Q.C., for the liquidators.