

of the 5th September, 1881. This new transaction was not made known to *D. et al.*, who on the 14th January, 1884, advanced a sum of \$3,000 to L. to enable him to pay off the Exchange Bank, and for which they accepted L's promissory notes. L. the debtor, having failed to pay the second instalment of his notes, *D. et al.*, who were not originally parties to the deed, brought an action to have the transaction between L. and the appellants set aside, and the mortgage declared void on the ground of having been granted in fraud of the rights of the debtor's creditors.

Held, reversing the judgments of the courts below, that the agreement by the debtor L., with the appellants was valid, the debtor having at the time the right to pledge a part of his assets to secure the payment of a loan made to assist in the payment of his composition. The Chief Justice and Taschereau, J., dissenting.

Per Fournier, J. That the mortgages ought to be set aside, having been registered on the 13th January, the respondent's right of action was prescribed by one year from that date. Art. 1040 C. C.

Appeal allowed with costs.

Geoffrion, Q. C., and Beausoleil for appellants.

Ouimet, Q. C., for respondents.

OTTAWA, NOV. 16, 1891.

Quebec.]

HUS V. COMMISSAIRES D'ÉCOLES DE STE. VICTOIRE.

Mandamus—Establishment of new school district—School Visitors—Superintendent of Education—Jurisdiction of upon appeal—Approval of three visitors—40 Vic. ch. 22, sec. 11, P. Q., R. S. Q. Art. 2055.

Upon an application by H., appellant, for a writ of mandamus to compel the respondents to establish a new school district in the Parish of Ste. Victoire in accordance with the terms of a sentence rendered on appeal by the Superintendent of Education under 40 Vic. ch. 22, sec. 11, P. Q., the respondents pleaded *inter alia* that the superintendent had no jurisdiction to make the order, the petition in appeal to him not having been approved of by three qualified visitors. The decree of the Superintendent alleged that the petition was also approved of by one L., Inspector of Schools.

Held, affirming the judgment of the Court of Queen's Bench