

The Statute of Limitations being pleaded plaintiff's only answer, after such a long lapse of time, would be that he did not discover the mistake until the very eve of the action.

Chesley, K.C., for plaintiff. *Roscoe, K.C.*, and *Grierson*, for defendant.

Longley, J.—Trial.]

[Nov. 3.

ATTORNEY-GENERAL EX REL. MORRISON *v.* LANDRY.

Trusts—Creation—Rights of cestui que trust—Enforcement of—School district—Ratepayers—Rights of minority—Proceedings in name of Attorney-General.

A sum of money raised by public subscription and in other ways was placed in the hands of the defendant L. and two others as trustees to purchase a house as a place of residence for the members of a religious Order then teaching in the public school of section 8 of the parish of D. and a memorandum was drawn up and signed by L. and his co-trustees in which it was set out that the place of residence to be purchased with the funds placed in their hands for that purpose was to be maintained by the Order so long as the members thereof remained at D., but in the event of their leaving the house was to become the property of the section and the trustees then holding office were to sell the house for the purposes of the school or the benefit of the section. L. and his associates acquired a property for the purpose intended, but took the deed to themselves without any qualification and the following day executed a deed to the Order in fee simple and without any reservations. Some months later the members of the Order decided to leave the province, and before doing so gave a deed in fee simple of the property to L. who proceeded to mortgage it to his brother F. L. to secure the sum of \$700.

Held, 1. F. L. having been present at the meeting of ratepayers when the trustees were appointed must be held to have taken his mortgage with notice of the trust.

2. There being a trust in favour of the ratepayers generally the interests of the minority could not be affected by a resolution illegally passed by the majority instructing the discontinuance of proceedings against the trustees and that the present proceedings were properly brought in the name of the Attorney-General.

3. The trustees of the section had power under the Education Act, R.S.N.S. c. 52, s. 55, to accept a gift of property for the benefit of the section.