amount, and held as security a mortgage dated 5th September, 1881, on L.'s real estate. The bank having agreed to accept $8000 cash for its claim, B. *et al.* on the 11th of January, 1884, advanced $3000 to L. and took his promissory notes and a new mortgage for the amounts, having discharged and released on the same day the previous mortgage of the 5th September, 1881. This new transaction was not made known to D. *et al.*, who, on 14th January, 1884, advanced a further sum of $3000 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 as the mortgage sought to be set aside had not been registered on the 13th of 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 *Beausoliel* for appellants.
Ouimet, Q.C., for respondents.

HUS *v.* COMMISSAIRES D'ECOLES DE STE. VICTOIRE.

Mandamus—Establishment of new school district — School visitors — Superintendent of Education—Jurisdiction of— Upon appeal— Approval of three visitors—49 Vict., c. 22, s. 11 (Que.), R.S.P.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 Vict., c. 22, s. 11 (Que.), the respondents pleaded *inter alia* that the superintendent had no jurisdiction to make the order, the petition in appeal to the superintendent 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 for Lower Canada (appeal side), that the petition in appeal must have the approval of three visitors qualified for the municipality where the appeal to the superintendent originated, and as Rev. A. Desoray, one of the three visitors who had signed the petition in appeal, was parish priest of an adjoining parish, and not a qualified school visitor for the municipality of Ste. Victoire, the sentence rendered by the superintendent was null and void.

TASCHEREAU, J., dissenting on the ground that as the decree of the superintendent stated that L., the inspector of schools, was a visitor, it was *prima facie* evidence that the formalities required to give the superintendent jurisdiction had been complied with. C.S.L.C., c. 15, s. 25.

Appeal dismissed with costs.

Lacoste, Q.C., and *Germain* for appellant.
Geoffrion, Q.C., for respondents.

QUEBEC, ETC., RY. CO. *v.* MATHIEU.

Expropriation—Q.R.S. 5164, ss. 12, 16, 17, 18, 24—Award—Arbitrators—Jurisdiction of— Lands injuriously affected—43 & 44 Vict., c. 43 (Que.)—Appeal—Amount in controversy— Costs.

In a railway expropriation case, the respondent in naming his arbitrator declared that he "only appointed him to watch over the arbitrator of the company," but the company recognized him officially, and subsequently an award of $1974.25 and costs for land expropriated and damages was made under Art. 5164, R.S.C. The demand for expropriation as formulated in their notice to arbitrate by the appellants was for the width of their track, but the award granted damages for three feet outside of the fences on each side as being valueless. In an action to set aside the award,

Held, affirming the judgment of the courts below, that the appointment of the respondent's arbitrator was valid under the statute, and bound both parties, and that in awarding damages for three feet of land injuriously affected on each side of the track the arbitrators had not exceeded their jurisdiction.