

ble him to purchase them: that the plaintiff consented, on condition that J. on receiving the goods should secure him against loss by a mortgage thereon, and on the other goods in J.'s store, who was to sell them at his store only, and out of the proceeds retire the notes, and if he should sell otherwise the plaintiff might sell the goods for his own protection: that the plaintiff endorsed, and J. with the notes purchased goods, which he mortgaged to the plaintiff, as agreed on, with other goods, for the *bona fide* and sole consideration of perfecting the said agreement: that J. afterwards, without the plaintiff's consent, assigned to the defendant, who took with notice of the mortgage, and was proceeding to sell the goods, when the plaintiff forbade him, and demanded them.

*Held*, that the replication was good, for that the plaintiff only became a creditor by the actual transaction, in which he gave the equivalent in the new goods purchased and procured by his credit; and under these circumstances, the plaintiff being ignorant of J.'s position, the mortgage was not avoided by the Insolvent Act, (sec. 8, sub-secs. 1, 3, 4,) though its effect might be to delay creditors.

*Quære*, whether it was voidable under sub. sec. 2.—*William Mathers v. John Lynch*, 27 U. C. Q. B. 244.

**INSOLVENT ACT—DISCHARGE—FRAUD.**—To a plea of discharge under the Insolvent Act, confirmed by the judge, the plaintiff replied a corrupt agreement between the insolvent and D. & Co., parties to the deed of composition and discharge, that in consideration of executing it D. & Co. should receive an additional sum above the composition, for which the insolvent gave them his note; and that the plaintiff and other creditors had no knowledge of such agreement until after the confirmation.

*Held*, a good answer, the confirmation not being made conclusive by the Act, under such circumstances.—*Thompson v. Rutherford*, 27 U. C. Q. B. 205.

**GRAMMAR SCHOOL MONEY—RECEIPT BY COUNTY TREASURER—LIABILITY AND RIGHT OF ACTION FOR.**—There being in a village a Joint Board of Grammar and Common School Trustees, on the 7th July the Chairman of the Board of Grammar School Trustees received a circular from the Education Office, advising him of the payment of \$202 for that school. This money had been paid into the Bank of Upper Canada at Toronto, as agents for the defendant, the Treasurer of the County, prior to its suspension, and the Bank sent him an order on their Hamilton branch,

which was not presented before the Bank stopped payment in September. It was not asked for until the 25th September, when the Treasurer of the Joint Board called for it. On the 26th defendant wrote to the Treasurer of the Joint Board enclosing this draft, saying it had been received by him for the grammar school, and had been lying in his office for their demand as usual since the 11th July. The plaintiffs having refused to accept the draft,

*Held*—1. That an action for this money would lie against defendant as Treasurer, it having been paid to his agents at Toronto, and he having admitted its receipt for the special purpose.

2. That as the Board of Grammar School Trustees, notwithstanding the union, still existed as a separate corporation, the action should have been by them, not by the Joint Board.

3. If the action had been rightly brought, defendant would have been liable for the loss on the draft, for the payment was made to his agents at Toronto in money.—*The Joint Board of Grammar and Common School Trustees of the Village of Caledonia v. Farrell*, 27 U. C. Q. B. 321.

## SIMPLE CONTRACTS & AFFAIRS OF EVERY DAY LIFE.

### NOTES OF NEW DECISIONS AND LEADING CASES.

**PROMISSORY NOTE PAYABLE IN U. S.—IN WHAT CURRENCY PAYABLE.**—A note made here, payable in the United States, but "not otherwise or elsewhere," is payable generally, and the law and currency of the place of contract must govern.

Declaration on a note, made at Toronto, payable to plaintiffs, for \$302 79. *Plea*, that the note was payable in Rochester, in the United States, where the plaintiff resided; that when it fell due, Treasury notes of the United States Government were a legal tender in payment of all notes; that if the defendant had then tendered the amount of the note in Treasury notes, it would have been a good tender; that 144 58 of lawful money of Canada then equalled in value Treasury notes to the amount of the note, and defendant brings that sum into court.

*Held*, assuming the note to have been payable at Rochester, but without the words "not otherwise or elsewhere," that the plea was bad.—*Hooker et al. v. Leslie*, 27 U. C. Q. B. 295.

**SUBPŒNA—NON-ATTENDANCE.**—A County Court judge being served with a subpœna *duces tecum* to produce a deed, did not attend: and on motion for an attachment excused his absence on the ground of important private business, urging also that he obtained the deed and became pos-