

informed of the transaction, and made no objection. May 1, 1882, the defendants, without notice of the transfer, paid the \$81.84 to F. The plea is the general issue.

The only ground of defence suggested is, that Barker could not lawfully appropriate the property of the partnership to the payment of his private debts. This he could not do, with or without the consent of his copartner, as against the then existing creditors of the firm. *Ferson v. Monroe*, 21 N. H. 462; *Kidder v. Page*, 48 N. H. 380.

But at the time of the transfer the defendants were not creditors; they had neither paid nor obligated themselves to pay the debt of the firm to F. In the absence of fraud, creditors of a copartnership cannot question an application, made before they became creditors of partnership property, to the payment of the individual debts of the partners. *Miles v. Pennock*, 50 N. H. 564; *Parker v. Bowles*, 57 N. H. 491; *Chase v. Bean*, 58 N. H. 183.

Judgment for the plaintiff.

CLARK, J., did not sit: the others concurred.

GRAFTON.

SCHOOL-DISTRICT v. SELECTMEN.

The proper remedy for an assessment of a school-district tax upon persons not taxable in the district, is an application made by them for an abatement.

PETITION, entered at the law term, by school-district No. 6 in Orford, against the selectmen of Orford, for a reassessment of a school-district tax, the assessment of which was ordered by a writ of mandamus in *School-District v. Carr*, *ante*, p. 201. The complaint is, that some of the persons on whom the defendants made the assessment are not taxable in the district.

Bingham, Mitchells & Batchellor, for the plaintiffs.

DOE, C. J. The appropriate remedy for an assessment of the tax upon persons not taxable in the district is an application made by them for an abatement. *Locke v. Pittsfield* (*ante*, p. 122); *School-District v. Carr* (*ante*, p. 201, 206).

Petition dismissed.

All concurred.