

assignee for the general benefit of creditors within the meaning of the *Act respecting Assignments and Preferences by Insolvent Persons* and amendments thereto, as well as to creditors having executions against the goods and chattels of the mortgagor or bargainor in the hands of the sheriff or other officer."

And section 4 of the same Act provides:—

"A mortgage or sale declared by said Act to be void as against creditors and subsequent purchasers or mortgagees, shall not, by the subsequent taking of possession of the things mortgaged or sold by or on behalf of the mortgagee or bargainee, be thereby made valid as against persons who became creditors, or purchasers, or mortgagees before such taking of possession."

These enactments were undoubtedly intended by the legislature to obviate the construction which the court had put upon the provisions embodied in chapter 125 of the Revised Statutes of Ontario. Section 1 of that Act provides that:—

"Every mortgage of goods and chattels not accompanied by an immediate delivery, shall, within five days from the execution thereof, be registered, etc."

And section 4 of the same Act provides that:—

"In case such mortgage or conveyance and affidavits are not registered as hereinbefore provided, the mortgage or conveyance shall be absolutely null and void as against the creditors of the mortgagor, and against subsequent purchasers or mortgagees in good faith for valuable consideration."

The mortgage now in question was not registered within the prescribed time, nor was there immediate delivery of the mortgaged goods. A line of decisions in the courts of the province had, previously to the passing of the Act of 1892, established that, in the construction of the first section of the Chattel Mortgage Act just set forth, the word "creditors" was to be construed as meaning "judgment creditors," and the words "null and void" as meaning "voidable." It was also held that the mortgagee might at any time validate a mortgage invalid for want of possession or registration, by taking possession of the mortgaged property. If it were necessary now to determine whether this construction was or was not correct, I am compelled to say, with great respect for the opinions referred to, that I should find great difficulty in agreeing with these decisions. First, I see no reason why the word "creditors" should be restricted to a particular class of creditors, viz., judgment creditors. Why should the same word receive a dif-