fer, but that does not alter the nature of the real transaction, which was not a bargain and sale, but a security given for a debt. There was undoubtedly an oral agreement by Parrott, upon the faith of which the bills of sale were made, that the Gays, who owned and were in possession of the goods subject to the charges on them, might redeem them by monthly payments of $50 each, and this cuts down Parrott's interest to that of a mortgagee: Beckett v. Tower Assets Co., [1891] 1 Q. B. 1. The bills of sale, not having been renewed, should be declared void as against the plaintiff, representing the creditors of the Gays.

The remaining question was whether any rent was due to Parrott when he distrained on 27th September, 1901. Parrott claimed $150 as due 3rd February, 1901, under a lease from him to the three defendants the Gays and one John Gay, for three years from 3rd February, 1898. This sum became due on 3rd February, 1901, and it was not paid; but on that day the lease expired and a new lease came into force from Parrott to the three co-defendants, John Gay having moved away. The distress was made more than six months after the expiration of the lease, and one of the tenants from whom the arrears were due had ceased to be in possession. In my opinion the landlord was not within 8 Anne ch. 14, and had no right to distrain for this $150.

Parrott also distrained for $200 due 1st April, 1901, under a lease dated 19th October, 1899, from him to his co-defendants for nine years from 3rd February, 1901. The rent was $400 a year payable as follows: "$200 on the 1st days of November and April in each and every year during the said term, and the last payment of $200 three months before the lease expires." The question was whether the first payment of $200 fell due on 1st November, 1901, or on 1st April, 1901. As $400 was to be paid during each year of the tenancy, that could be carried into effect only by holding that the first payment fell due on 1st April, 1901. Parrott, therefore, had a right to distrain for this $200.

As plaintiff did not entirely succeed, there should be no costs of appeal. Parrott should pay the costs of the action, as plaintiff has substantially succeeded in it. Parrott is entitled to $200 of the proceeds of the goods in plaintiff's hands for the half year's rent under the second lease. Plaintiff may apply this on his costs of the action, and defendant Parrott is to pay the balance of costs, if any.

BRITTON, J., gave reasons in writing for coming to the same conclusion.