

I find that at the time his mother advanced him the \$1,200, he agreed he would secure her by a second mortgage upon his farm.

After the suit against McMahon began, Mrs. Horan sent word to her son that she required him to carry out his agreement. It may be that she feared the costs of the litigation were likely to amount to more than her son could bear. The suit was, even in the stages preceding the trial, a very expensive one. The plaintiff's ready money was quickly exhausted; and on the eve of the trial he sought assistance from his brother Eugene, who agreed to advance \$325 on the security of the plaintiff's chattels.

A solicitor at Tottenham was consulted. The chattel mortgage of October 27th, 1910, was then prepared and executed, and the consideration paid over to the plaintiff, who took advantage of the occasion to have the mortgage made which he had promised two years previously to give to his mother.

James Horan was undoubtedly solvent at the time. His liabilities were small. While the farm had not increased in value, there was a slight equity in it, and the chattels were worth \$1,100 or \$1,200 and unencumbered. The determination which he manifested in carrying on the suit indicates that he was sanguine as to the result.

As the mortgage from James Horan to his mother was, upon evidence which I have no reason to doubt, made in good faith, when he was solvent, in pursuance of the prior agreement with her and without any fraudulent intention, it cannot be successfully impeached.

The chattel mortgage also stands, because executed in good faith, and to secure an actual advance of \$325, which James Horan required to carry on the suit against McMahon. He paid to his counsel \$75 out of the amount borrowed, and large sums to witnesses—to one, a surveyor, no less than \$95.

Judgment was reserved at the trial, on November 1st, 1910, of *Horan v. McMahon*. On November 10th, Mr. Justice Riddell handed out his reasons for dismissing Horan's suit. An appeal was taken to the Divisional Court. The case was argued on the 26th January, 1911; and on March 10th, 1911, judgment was rendered, dismissing the appeal with costs.

Although the value of the land in dispute was less than \$200, and the plaintiff at this period was out of pocket