

that the indebtedness to defendant, which was in February, 1911, about \$5,400, had considerably increased in the meantime, it is not easy to give much weight to his statement that he did not ascertain the amount of the liabilities, from which, taken in conjunction with the stated value of the assets, he would have learned the true financial condition of the debtor. If we are to believe him, he did not even make enquiries about the liabilities, and I am not, under these circumstances, apart from anything else, prepared to accept his evidence that he did not know that the mortgagor was insolvent. I have no doubt that he did know, and that the mortgagor and his brother also knew, and that the mortgage was made with that knowledge and for the very purpose of securing the defendant for the debt due him and thus defeating or prejudicing the rights of other creditors.

In that view of the case, I do not think it necessary to discuss what was said by the mortgagor and his brother about the alleged bargain that defendant was to advance such cash as would be necessary from time to time to satisfy other creditors, and assist in keeping the business running for a year. The two cash advances, amounting altogether to \$950, made by defendant soon after the making of the chattel mortgage, might indicate some such bargain, but I do not need to pass upon that. If, however, such a bargain were made and did exist, defendant did not live up to it. It is denied, however, on defendant's behalf that any such agreement was entered into.

Something was said, too, that would indicate a desire or intention to keep the other creditors quiet for a time after the making of the mortgage. The evidence on that point was not denied. That, in itself, helps to shew an intent to give defendant a preference. To my mind, therefore, the chattel mortgage is void as against the other creditors of the mortgagor.

On another ground also the mortgage is void. Clause (a) of section 5 of the Bills of Sale and Chattel Mortgage Act, 10 Edw. VII. ch. 65, requires that the affidavit of the attesting witness, which is to be registered with the chattel mortgage, shall, amongst other things, state the date of the execution of the mortgage.

Section 7 provides that if the mortgage and affidavits (that is, the affidavits of the attesting witness and the affidavit of *bona fides* by the mortgagor), are not registered as