

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 the 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 the 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, the defendant did not live up to it. It is denied, however, on the 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 sec. 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 affidavit of the attesting witness and the affidavit of bona fides by the mortgagee) are not registered as by the Act required, the mortgage shall be absolutely null and void as against creditors of the mortgagor and as against subsequent purchasers or mortgagees in good faith for valuable consideration. The affidavit of the attesting witness filed with this mortgage sets forth that it was executed "on Tuesday the 9th day of January, one thousand nine hundred and ."

This requirement of the statute is imperative, and it must be construed strictly. Failure to mention the year in which it was executed is, in my opinion, a fatal omission, and such a non-compliance with the requirements of the Act as renders the mortgage void.

For the above reasons, apart from any others that were urged, the mortgage should be set aside, and the mortgaged assets held by the assignee freed therefrom. If any of the goods