

On March 12th, 1912, he by bill of sale, transferred his business to his brother Alfred St. Laurent, who, on June 26th, 1912, made an assignment to plaintiff for the general benefit of his creditors.

A. E. Fripp, K.C., for plaintiff.

J. V. Vincent, K.C., for defendant.

HON. MR. JUSTICE KELLY:—After the evidence has been taken at the trial, Arthur St. Laurent also executed to plaintiff an assignment for the general benefit of his creditors, and plaintiff as such assignee, on December 7th, 1912, commenced another action against Arthur St. Laurent similar to this action. The two actions were then consolidated, and defendant was given time and opportunity to adduce further evidence, and on February 8th, 1913, the matter again came before me, but no further evidence was submitted.

On its face the chattel mortgage was made to secure a debt of the mortgagor already incurred, and the mortgage does not purport to be made on any other consideration, or even to have given an extension of time for payment.

As far back as the beginning of February, 1911, the mortgagor was indebted to the defendant to an amount considerably in excess of \$5,000, and on the evidence adduced for defendant, at no time afterwards was that indebtedness less than it was in February, 1911. At the end of 1911, it was considerably more. In December, 1911, defendant's representative at Ottawa interviewed the debtor and his brother Alfred, who acted as manager of the business, and asked for payment or security, and was told that the debtor had no money and could make no payment, and that the debtor was then insolvent.

It is true that defendant's representative denies that it was stated to him that the debtor was insolvent, but I feel bound to accept the testimony of the debtor and his brother on that point, especially in view of the somewhat peculiar circumstances surrounding the making of the chattel mortgage, and the occurrences leading up to it.

Defendant's representative, Bissonette, in denying knowledge or notice of the debtor's insolvent condition in December, 1911, says that the debtor or his brother then told him that the debtor's stock-in-trade or assets amounted to \$12,000 and though he was pressing for payment and knew of the debtor's inability to make any payment, and knew, too,