of persons finding it necessary to execute or take mortgages on chattels or assignments for the benefit of creditors, by the passing of the statute which has been so much discussed, but merely to regulate them in so far that their *bona fides* should be secured, or sworn to at all events, and their notoriety made public by registry within a specified time. Were it the intention to require their registry before they should have any efficacy against creditors and subsequent purchasers, &c., in good faith, I think such intention would, in the concise and simple language now used in our acts of parliament, have been more plainly expressed, and probably language similar to that of the Imperial statute 3 & 4 Wm. IV. cap. 55, secs. 34 & 35, which provides that no bill of sale shall be valid and effectual till registered, would have been employed, and that a proviso would have been inserted that it should not be valid if not registered within five days from its execution; thus conferring validity on the bill of sale on its registration, and if not registered within five days making it invalid.

I must say I think the legislature had no intention to restrain the making of such instruments; indeed I should think it especially otherwise, as applicable to assignments like that which is the subject of this interpleader, or to deeds of composition with creditors; for it not unfrequently happens that a large body of creditors are willing to take what an honest and unfortunate debtor may have to give up to them in liquidation of their debts, which, when properly disposed of by ordinary fair means, may go largely to satisfy their claims, and that some rapacious and unprincipled creditor, determined to get his last penny at any sacrifice, watches and takes his opportunity of advantage, and puts an execution in the sheriff's hands, to have everything seized and sold at an enormous sacrifice, to the detriment of every one but himself; and the holding that a bill of sale or assignment like the present takes no effect by relation would have a tendency to invalidate a great number of such instruments, that are not executed on the exact spot where they are required to be registered.

In this case the assignment was registered within five days, that is, within three days, and I think all that the statute required to be done was done in order to make and continue it a legal transfer or sale of the goods in the store, but not so of the household furniture. If the five days had not been specified in the statute, the instrument would have to be registered within a reasonable time, which, if done to the satisfaction of the court and jury, I think the transfer and title would still relate to the execution and date of the instrument; but I regard the specific five days set forth in the statute as inserted to prevent litigation and uncertainty, and to place the matter beyond the doubts that parties might entertain by the variety of circumstances that would encompass each particular case, and the still greater uncertainties that might exist of satisfying the minds of jurors as to what is reasonable and what unreasonable.

I think there is an analogy between the assignment in question here, and the bill of sale of a ship, under the Imperial statute (now repealed) 34 Geo. III. cap. 68, which, in sec. 16, required, in the case of a ship absent from port, that the bill of sale should be registered, and that the endorsement should be made on the certificate of registry within ten days after return, with a provision making void the bill of sale on failure of compliance with these requisites.

Moss v. *Charnock* (2 East, 399) was a decided case, expressly under the statute last referred to, and would, had it not been overruled, have been to my mind a decisive authority against a title under a bill of sale or mortgage of chattels registered within five days, as our act requires, being construed to have relation back to the day of its date, because the court held that that statute was to be construed as enacting that no bill of sale or other such instrument shall be allowed to have any operation or effect until the requisites imposed on the parties to the sale are complied with, and not allowing any relation to hold good so as to make the conveyance effectual from any antecedent time. It is to be observed, however, that that decision did not proceed upon the 16th section of the statute, which required the endorsement on the certificate of registry to be made within ten days after the ship's return to port—because the endorsement was not made within ten days after the ship's return—but because an unreasonable time had elapsed between the date of the execution of the bill of sale and its registry.

I find the subsequent cases—*Palmer* v. *Mozon* (2 M. & S. 43), *Dixon* v. *Ewart* (3 Meriv. 322), *Mestaer* v. *Gillespie* (11 Ves. 637), and *Hubbard* v. *Johnson* (3 Taunt. 208)—so materially qualify the decision of *Moss* v. *Charnock*, as to overrule it for all purposes of the question now before me.

In *Dixon* v. *Ewart*, Lord Eldon, acting upon the opinions of Dallas, C. J., and Abbott, J., held, "that a transfer of a ship at sea, if all the requisites of the registry acts have been fully complied with at the time of the transfer, vests the property in the vendee, subject only to be divested by the neglect of the vendor to make the endorsement on the certificate of registry within ten days after the return of the ship into port; and that if a bankruptcy intervenes before the arrival of the ship, the endorsement being only an act of duty on the part of the vendor, and passing no interest, may be performed by the bankrupt himself."

Bayley, J., said, in *Palmer* v. *Mozon*: "The case of *Moss* v. *Charnock* was, I think, rightly decided, under the circumstances: for there the bill of sale was executed on the 23rd August, and the requisites of the statute were not complied with until the 5th December; so that there was gross delay. Expressions used in that case have been pressed upon us, which would certainly militate against the present decision; but these expressions appear, upon consideration, to have gone further than what was necessary, or than the law warrants. The true construction of the act seems to be this, that the bill of sale shall be holden to transfer the property from the time of its execution, but shall be liable to become void *ex post facto*, that is if the party does not comply with the requisitions of the statute within a reasonable time; upon the failure of which, the statute makes the sale null and void."

Dampier, J., in the same case, said: "The efficient act is the bill of sale, which is to be void if the requisites of the statute are not complied with afterwards. That falls precisely within the definition of a condition subsequent."

The same view of *Moss* v. *Charnock*, in the more recent case of *Boyson* v. *Gibson* (4 C. B. 122), although that was a decision under an entirely different statute (3 & 4 Wm. IV. c. 55), which requires a registry before a bill of sale can have any force or effect whatever. The court, in disposing of that case (p. 145), said: "A review of the cases of *Palmer* v. *Mozon* and *Dixon* v. *Ewart*, which were cited for the plaintiffs, and of the statute on which those cases were decided, will be found to confirm the opinion we have formed on the statute 3 & 4 Wm. IV." And again, at page 146, speaking of 34 Geo. III. cap. 68: "When the registration and endorsement had been made, the bill of sale was taken out of the operation of this avoiding clause, and stood on the same ground as it would have done if there had been no such clause in the act, *i. e.*, as a bill of sale, operating from its execution according to its terms; and in conformity with this view, in *Palmer* v. *Mozon* and *Ewart* v. *Dixon*, it was held that under 34 Geo. III. cap. 68, the interest passed by the bill of sale on its execution, and that the performance of the requisites as to registration and endorsement was a condition subsequent, and failure to perform it defeating the interest which had vested by the bill of sale immediately on its execution. That this is the true construction of the act 34 Geo. III. cap. 68, we think is not to be disputed. But it is to be observed that the cases cited overruled the doctrine as to the construction of that act, on which the Court of King's Bench, in the case of *Moss* v. *Charnock* (2 East, 399), proceeded, and speaks of the decision as a somewhat forced construction, in which the words of the enactment are made to give way to the presumed intention of the act."

I have diligently searched through the authorities within my reach for decisions under the recent Imperial Statutes known as the English Bills of Sale Act (17 & 18 Vic., cap. 36), and the Irish Bills of Sale Act (17 & 18 Vic., cap. 55), which, although more comprehensive than our Provincial Act, are like it in their provisions, and the same in character, I have found only one, which I think quite decisive upon the question, and bears out the view I entertain upon it *Marples* v. *Hartley* was an interpleader issue decided last month by the Court of Queen's Bench in England:—The plaintiff lent one Shemwell £45, upon the security of a bill of sale of household furniture and stock, dated 27th June, 1860. A