

a deed or mortgage of personal estate, whereof the vendor, or mortgagor remains in possession, is not void by construction of law, even though it be not recorded in time, and that this position is shown to be sound, by referring to the 11th section of the act of 1785, ch. 72, which, under the circumstances mentioned in the act, authorizes the Chancery Court to order such deed to be recorded. But this power, by the provision of the section, cannot be executed to the prejudice of subsequent creditors and purchasers, and, therefore, the failure to record, as required by the act of 1729, would, looking alone to the language of the act, seem to be conclusively fatal.

Such a deed may nevertheless be valid, notwithstanding the omission to have it recorded, as has been shown by the case of *Hudson vs. Warner and Vance*, when the object sought to be attained by the legislature has been accomplished in some other way. Show that the party complaining has actual notice, that is, that as to him, it is not a secret conveyance, and his objection will not be attended to. Give a party actual notice, and in the language of Mr. Justice Story, his conscience is bound, whilst the operation of the registration acts, is only to bind the title. 1. *Story. Eq., section 401.*

All the decisions of the courts upon the act of 1729, and all subsequent legislation, concur, in my judgment, in condemning this attempt to evade the legislative will, in regard to the transfers of the title to personal estate. The possession of such property, as is known, carries with it much more forcible evidence of title, than the possession of real estate. It passes by delivery, and its rapid transfer from hand to hand, is indispensable to the operations of commerce. Hence the time for recording deeds of personal estate is limited to twenty days.

The manifest design of the legislature to give the public notice, not only of the existence of incumbrances on estates, but of the precise amount of such incumbrances, is shown by the act of 1825, ch. 50, to limit the operation and effect of mortgages. And the same wise policy is still further displayed, by the second section of the act passed the same year, chapter 203. And it is also to be observed, that though the legisla-