trusts of the grantor's last will was void as to subsequent creditors, for those trusts were necessarily kept secret from such creditors and the grantor's purposes as to them and their debts concealed from them until his death, the Court, as will be mentioned presently, thought that the registration of the deed was notice to such creditors, though as to existing creditors it was held void on other grounds. It follows from these cases, that a secret reservation of a right to the grantor to repurchase at a future time is not fraudulent in construction of law *per se;* and that notice of an instrument being on an undisclosed trust, will prevent a subsequent creditor from attacking it as fraudulent unless for fraud in fact. And in Harris v. Alcock, 10 G. & J. 226, where a judgment was confessed on a note purporting to be for value, it was held competent, on its being alleged that the note was fictitious, for the judgment creditor to show the real consideration, and it was further determined that where a judgment is confessed to A. for his own and the benefit of others, it is no objection that the trust does not appear on the record, but it may be proved by parol, and see Citizens' Ins. Co. v. Wallis, 23 Md. 173, and Meux v. Howell, 4 East 1.

Recording of defeasance.—The Act of 1825, ch. 203, sec. 2, Code, Art. 64, sec. 1,[29] provides that where a conveyance is attended with an agreement for defeasance, the two instruments shall be recorded together, otherwise the conveyance itself shall be void. Before this Act, the omission to record the defeasance operated only to the prejudice of the grantor by placing his redeemable interest at the mercy of the grantee, for the latter might have conveyed an indefeasible estate to a purchasr for valuable consideration without notice in fact of the condition. The Act, however, now makes it the duty of the grantee, for the protection of his own interest, to see that the entire instrument—conveyance and defeasance—are enrolled together, and annuls the conveyance as a penalty for non-performance of its requirements. In Ing v. Brown, 3 Md. Ch. Dec. 521, this Act was held not to extend to a bill of sale absolute on its face but in reality only a security for money loaned and to be loaned to the grantor, for no defeasance had been executed and none could be recorded. In Water's lessee v. Riggin *supra*, the Court observed that a contract by a vendee to re-sell, made contemporaneously with the deed, does not impair the validity of the deed, nor is it necessary that the agreement for re-sale should be recorded, but the case there being, that the grantee had in fact agreed to pay certain debts of the grantor, and had executed a bond of even date with the deed, to re-convey the lands to the grantor, on re-payment within a certain time of the monies advanced for that purpose, the transaction was held to be a mortgage, and the deed therefore no evidence of title in the grantee, and the grantor's insolvent trustee would take the property free from his interference. However, in Owens v. Miller, 29 Md. 144, it was decided that a subsequent grantee with notice, actual or constructive, of a deed, a defeasance to which was not recorded, would be postponed to the first grantee.[30]

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[29] Code 1911, Art. 66, sec. 1; Snowden v. Pitcher, 45 Md. 260.

[30] The deed is valid between the parties though the defeasance is not recorded. Harrison v. Morton, 87 Md. 674.