

RECORDING OF MORTGAGES—*Continued.*

plainants then filed their bill to vacate this deed, as either fraudulent in fact, or as void constructively by reason of the provisions of the registration acts. **HELD—**

That a party cannot be permitted take a bill of sale, or mortgage of chattels from another for his own security, leave the mortgagor in possession, and ostensibly the owner, and at his request, and to keep the public from a knowledge of its existence, withhold it from record for an indefinite period; renewing it periodically, and then receive the benefit of it, by placing the last renewal upon record, to prejudice of others; whom the possession and ostensible ownership of that very property by the mortgagor, have induced to confide in him. *Gill vs. Griffith & Schley*, 270.

2. That, as no new consideration passed between the parties since the mortgage of the 4th of September, 1845, all the mortgages executed since then are mere renewals or continuations of the one executed on that day, and viewed in this light, the registration on the 18th of June, 1846, was not in time. This mortgage, therefore, falls within the express terms, as well as spirit, of the act of 1729, ch. 8. *Ib.*
3. If this deed could now be recorded under the 11th section of the act of 1785, ch. 72, it cannot, by the express terms of that act, in any manner, affect the rights of the creditors of the party making it, who became such after the date thereof. *Ib.*
4. As the object of the act of 1729, ch. 8, was to protect creditors from prior secret conveyances, any such creditor, who had notice of such conveyance, cannot be considered as falling in the class of those for whose benefit the act was passed. *Ib.*
5. By the act of 1729, it was intended, that speedy information should be given to any person of any transfer of personal property, when the party transferring retained the possession: and that such possession, unless the deed was acknowledged and recorded as therein provided, of itself, as to creditors and subsequent purchasers, defeated the first conveyance. *Ib.*
6. The manifest design of the legislature to give the public notice, not only of the existences of incumbrances on estates, but of the precise amount thereof, is shown by the act of 1825, ch. 95. And the same wise policy is still further displayed by the 2nd section of the act, passed the same year, ch. 203. *Ib.*
7. Though the legislature has changed the law with regard to the registration of deeds, or conveyances of real estate, by the acts of 1825, ch. 203, sec. 1, and the act of 1831, ch. 304; it has never, in any respect, modified the act of 1729, to prevent secret sales, mortgages, and gifts of goods and chattels, of which the vendor, mortgagor, or donor, should remain in possession; but these have continued exposed to the stern, but wholesome provisions of that act. *Ib.*
8. All the decisions of the courts upon the act of 1729, and all subsequent legislation concur in condemning the attempt made in this case to