

the complainant, that it is not competent to the other side, by parol, under the circumstances of this case, to convert the absolute conveyance into a mortgage, and such, I apprehend, is the true doctrine as applicable to this case.

In *Henderson vs. Mayhew, et al.*, 2 *Gill.*, 393, the rule is clearly stated by the Court of Appeals: "Parol evidence" (the Court say) "is inadmissible to change or contradict the terms of a written contract. Strangers to the instrument, when authorized to impeach or contradict it, may offer parol testimony for that purpose, and so a grantor may, in a controversy with the grantee, if he charges the same to have been obtained by fraud or mistake. But parties to a written instrument are not permitted in controversies with strangers, to insist that it does not express what it was intended to express." Now that is precisely what is attempted here. It is the party to the instrument, the grantee, in a controversy with a stranger; that is, in a controversy with the trustee representing the creditors of the grantor, who attempt to show by parol that this absolute conveyance was intended to be, and was given as a mortgage, to secure an old debt of more than twenty years' standing.

My opinion is, that these two conveyances are void as against the creditors of the grantor, under the provisions of the statute of 13 *Elizabeth*, *ch.* 5. That they cannot be regarded as made upon a valuable consideration and *bona fide*, both of which must concur, for if the intent be to defraud or defeat creditors, the conveyance will fall, though the consideration may not only be valuable, but adequate; 1 *Story's Eq.*, *sec.* 369. But upon a careful examination of the evidence, and for the reasons which have been in part stated, my opinion is, that the consideration was neither valuable nor *bona fide*, and therefore without inquiry how they may be affected by our insolvent system, they must be vacated, and a decree will be passed appointing a trustee to sell the property, for the purpose, of being administered by the complainant in insolvency.

I am not now prepared to say, however, that the defendant, *Hugh McNeal*, shall be held to account for the goods and furniture included in the bill of sale, but the decree may contain a direction that the Auditor shall ascertain the value of the