

ture has changed the law with regard to the registration of deeds of conveyances of real estate, giving, by the first section of the act of 1825, ch. 203, a preference to that deed which shall be first recorded according to law, over deeds subsequently recorded, and by the act of 1831, chapter 304, authorized the recording of deeds at any time, except deeds of mortgage, and giving effect, to a certain extent, to deeds so recorded. The law-making power, seems never to have modified, in any respect, 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, in my judgment, wholesome provisions of that act.

In the case of *Hambleton vs. Hayward*, 4 *Har. and Johns.*, 443, the Court of Appeals said, by the act in question, it was intended that speedy information should be given to every person, of any transfer of personal property, where the party transferring retained the possession, and that such possession, unless the deed was acknowledged and recorded of itself, as to creditors and subsequent purchasers, defeated the first conveyance. Such has been the uniform language of the courts, the only qualification to it being, that when *actual notice* can be traced to the subsequent creditors and purchasers, the object of the statute is attained, and a literal compliance with its language as to them need not be insisted upon. *Dorsey vs. Smithson*, 6 *Har. and Johns.*, 61; *Clary vs. Frayer*, 8 *Gill and Johns.*, 398; *Byer vs. Etuyre and Besore*, 2 *Gill*, 151.

In view of these legislative provisions, and the repeated decisions of our courts upon the subject, all concurring to show the indispensable necessity of giving publicity to transactions like the present, it seems to me to be impossible, to sanction the course adopted by these defendants, with regard to this bill of sale.

If such an instrument may be renewed for one year, it may be for twenty, during all which time the mortgagor, being in possession, is the apparent owner, and is dealt with and trusted as such, whilst the actual ownership is elsewhere, and this la-