

under the statute of Elizabeth, and as executed in fraud of the insolvent laws, and by an order of said Court, passed upon his bill, he was appointed receiver, to take charge of the property contained in them.

The explanation given of this transaction, in the answer of Brown, is this: that in November, 1847, he being about to engage in business as a tobacconist, in the City of Baltimore, Brannan agreed to advance him the sum of \$800, to aid him therein, and did accordingly advance him, between the 5th of said month and the 21st of January following, money, at various times and in various sums, which the answer particularly specifies, amounting in all to \$584; and on the 11th of February following, he purchased of said Brannan various articles specified, amounting in all to \$408; and that at Brannan's urgent request, he did, for the purpose of securing the payment of the sum already advanced, being then about \$300, as well as the balance of said \$800 agreed to be advanced and as a guarantee for which Brannan delivered to him a note of a Boston firm for \$500, he executed the bill of sale of the 13th of December, 1847; and to cure the defect therein, subsequently executed that of the 11th of April, 1848. The other facts of the case are sufficiently stated in the Chancellor's opinion.]

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THE CHANCELLOR :

It being admitted in the answer of Brannan, that his purpose in taking the bill of sale of the 13th of December, 1847, was to obtain a security for money loaned and to be loaned the grantor, I am of opinion that though the instrument is absolute on its face, it must be considered as a mortgage. *Dougherty vs. McColgan*, 6 G. & J., 275.

Being a mortgage in contemplation of equity, it has been insisted that no effect can be given to it, and the grantee must lose the benefit of the security, by reason of the provision contained in the 2d section of the Act of 1825, ch. 203. But an examination of that statute will show it to be entirely inapplicable to such a conveyance as this. This is not a conveyance "which, by any other instrument or writing, appears to have