

BILLS OF SALE.

16th GEO. V., No. XLII.

No. 41 of 1925.

AN ACT to amend the Bills of Sale Act, 1899.

[Assented to 31st December, 1925.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Bills of Sale Act Amendment Act*, 1925, and shall be read as one with the Bills of Sale Act, 1899, hereinafter referred to as the principal Act.

Short title.

2. Section eight of the principal Act is hereby repealed, and the following section shall be substituted therefor:—

Repeal of sec. 8 and insertion of new section.

8. (1.) Every bill of sale shall be executed in duplicate, and shall be attested by at least one witness not being any party thereto; and such witness shall sign a declaration at the end of such bill of sale and duplicate in the form or to the effect as set out in the Sixth Schedule to this Act; and any person who subscribes such declaration which in any material particular is to his knowledge false shall be guilty of a misdemeanour, and shall be punishable as if he were guilty of an offence under section one hundred and seventy of the Criminal Code.

Execution and registration of bill of sale.

(2.) It shall not be necessary for the attesting witness or witnesses to make any such declaration before a Justice of the Peace or other person authorised to take and receive declarations, but a simple signature of the attesting witness or witnesses shall be sufficient.

(3.) Every bill of sale shall be registered, and for the purpose of such registration shall be lodged with the Registrar in duplicate, and such registration shall be effected by the Registrar endorsing upon each duplicate a certificate of such registration, stating the day and hour of the production thereof for registration and the actual date of registration, and a reference to the Register Book in which the same is recorded, and such certificate shall be authenticated by the seal and signature of the Registrar.

(4.) One duplicate (hereinafter called the original) shall be filed in the Registry, and the other (called the duplicate) shall be handed to the person entitled thereto, or his solicitor or agent; and the production of the original or of the duplicate with such certificate endorsed thereon shall be *prima facie* evidence of the due registration of such bill of sale.

(5.) Whenever there shall be any difference or variation between the contents of any original bill of sale and the duplicate, the original shall prevail.

Amendment of
sec. 11.

3. Section eleven of the principal Act is hereby amended by deleting from subclause one thereof the words "and shall mark on the filed copy thereof the date of the presentation and of the registration thereof and the number thereof."

Amendment of
sec. 17.

4. Section seventeen of the principal Act is hereby amended by deleting the words "the copy of" in the third line, and substituting therefor the word "original."

Amendment of
secs. 18 and 19.

5. Sections eighteen and nineteen of the principal Act are hereby amended by omitting the words "or the filed copy thereof" whenever the same appears in those sections, and by omitting the words "copy or" appearing in the fifth and sixth lines of section nineteen.

Amendment of
sec. 20.

6. Section twenty of the principal Act is hereby amended by omitting from the fourth line thereof the words "or of the filed copy thereof."

7. Section twenty-five of the principal Act is repealed, and the following section is substituted therefor:—

Repeal of sec. 25
and insertion of
new section.

25. (1.) Every bill of sale or debenture not complying with the terms of section six or fifty-one of this Act, as the case may be, or not duly registered or renewed in the manner and time in this Act provided, shall be deemed fraudulent and void as against—

Effect of non-compliance with Act
or non-registration.

(a) the Official Receiver or the trustee or liquidator (under any law relating to bankruptcy, insolvency, or winding up) of the estate of the grantor;

(b) the assignee or trustee acting under any statutory deed of assignment for the benefit of the creditors of the grantor,

so far as regards the property in or right to the possession of any chattels comprised in such bill of sale which, at any time within three months before the time of the presentation of the petition in bankruptcy or winding up, or of the passing of an effective resolution for the winding up, or of the execution of such deed of assignment, as the case may be, and after the expiration of the time and extended time (if any) allowed for the registration or renewal of such bill of sale or debenture shall have been in the possession or apparent possession of the grantor.

(2.) Such bill of sale or debenture shall also be void as against all sheriffs, bailiffs, and other persons seizing any chattels comprised therein in the execution of the process of any Court authorising the seizure of the chattels of the grantor and as against any person on whose behalf such process shall have been issued so far as regards the property in or right to the possession of any such chattels comprised in such bill of sale or debenture which, at the time of such seizure and after the expiration of the time and extended time aforesaid, shall be in the possession or apparent possession of the grantor.

(3.) When, in accordance with this section, any document, whereby chattels are let on hire (with or without right of purchase) or otherwise bailed by the owner, or are acknowledged to have been received on hire or as a bailment from the owner, is or becomes void in respect of any chattels as against any person, then the chattels affected shall, as between the owner and such person, be deemed to be the property of the person to whom they

have been so let on hire or bailed as aforesaid, but nothing herein shall affect the respective rights, as between themselves, of the owner and hirer or bailee of any such chattels.

Insertion of new section in principal Act.

8. There is hereby inserted in the principal Act after section thirty-six thereof, a section as follows:—

Protection of bona fide purchasers.

36a. Nothing in sections twenty-five, thirty, thirty-one, or thirty-two of this Act shall affect the rights of any person making title to any chattels through or under any grantee of a bill of sale in good faith and for valuable consideration, by virtue of any sale or other disposition effected whilst the chattels were not in the possession or apparent possession of the grantor.

Amendment of sec. 54.

9. Section fifty-four of the principal Act is amended by the insertion before the word “sewing-machine” of the words “household furniture, tools of trade.”

No retrospective effect.

10. Nothing in this Act contained shall affect the rights or liabilities of the parties to any bill of sale or debenture which has already been executed prior to the coming into operation of this Act.

Addition of Sixth Schedule.

11. A schedule is added to the principal Act, as follows:—

SIXTH SCHEDULE.

I [*here state names in full, residence and occupation*] the person whose name appears as the attesting witness to the above Bill of Sale do hereby declare that I was present at on the of , 19 , and saw [*grantor*] sign the above instrument, and I thereupon signed my name as attesting witness thereto.

Dated the day of 19 .

Amendment of Second Schedule to Act No. 13 of 1906.

12. Form B in the second Schedule of the Bills of Sale Act Amendment Act, 1906, is amended by the insertion of a column descriptive of the grantee or grantees as in Form A to the said Second Schedule.