



Western Australia.

ANNO SEXAGESIMO TERTIO

VICTORIÆ REGINÆ.

No. XLV.

AN ACT to consolidate and amend the Law
relating to Bills of Sale, Liens, and Bailments.

[Assented to, 16th December, 1899.]

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

Preliminary.

1. THIS Act may be cited as the Bills of Sale Act, 1899.
Short title.
2. THIS Act shall come into force on the 1st day of March,
1900.
Date of coming into
operation.
3. THIS Act shall apply to every bill of sale and debenture
executed on or after the 1st March, 1900, whereby power is given
or conferred, either with or without notice, and either immediately
or at any future time, to seize or take possession of any chattels
comprised in or made subject to such bill of sale or debenture.
Application of Act.
4. (1.) THE Acts mentioned in the First Schedule are repealed,
to the extent to which the same are thereby expressed to be repealed.
Repeal.

63° VICTORIÆ, No. 45.

Bills of Sale Act, 1899.

(2.) No such repeal shall affect any bill of sale made, given, or executed before the commencement of this Act, nor the registration thereof, or the rights or liabilities of any person in connection therewith, except with respect to renewal of registration or as hereinafter mentioned.

Interpretation.

5. IN this Act, and for the purposes thereof, if not inconsistent with the context,—

“ Bill of Sale.”

“ Bill of Sale ” includes any document or agreement whatsoever, whether by deed or by parol, and whether by way of sale, security, gift, or bailment ;

(1.) Transferring, or intended to transfer, or to be a record or evidence of the transfer of the property in or right to the possession of chattels ; or

(2.) By which a right, authority, or license to the possession of or to seize any chattels, or to any charge or security thereon shall be conferred or reserved.

Provided that nothing herein contained shall prejudice or affect the right of a landlord to distrain for rent or the right to distrain for rent on a demise by a mortgagee in possession to the mortgagor as his tenant at a fair and reasonable rent.

“ Bill of sale ” shall not include assignments for the benefit of the creditors of the grantor, made pursuant to any statutory provision ; transfers or assignments of any ship or vessel, or any share thereof ; transfers of goods in the ordinary course of business of any trade or calling ; debentures issued by any company or other corporate body, and registered under the provisions hereinafter contained ; ante-nuptial settlements ; bills of sale of goods in any foreign parts or at sea ; bills of lading, warehouse-keeper's certificate, custom warrants, or other warrants or orders for the delivery of goods or any other documents used in the ordinary course of business as proof of the possession or control of goods, or authorising or purporting to authorise, either by indorsement or delivery, the possessor of such document to transfer or receive the goods thereby represented.

Crops.”

“ Crops ” means European flax, hemp, wheat, maize, barley, oats, and grass, whether for hay or for grain, and all cereal and root crops and fruit.

“ Chattels.”

“ Chattels ” includes any personal property capable of complete transfer by delivery, including fixtures and growing crops when separately assigned, charged, or bailed, and also book debts, but shall not include choses in action other than book debts.

No fixtures shall be deemed separately assigned, charged, or bailed, and no growing crops shall be deemed separately assigned, or charged, by reason only that they are assigned, charged, or bailed,

63° VICTORIÆ, No. 45.

Bills of Sale Act, 1899.

or assigned or charged respectively by separate words, or that power is given to sever them from the premises to which they are affixed or on which they grow, without otherwise taking possession of or dealing with such premises, if by the same instrument any freehold or leasehold interest in the premises to which such fixtures are affixed, or on which such crops grow, is also conveyed, transferred, bailed, or mortgaged to the same person or persons.

The machinery used in or attached to any factory or workshop as hereinafter defined, shall be chattels within the meaning of this Act; but

- (1.) The fixed motive-powers, such as the water-wheels and steam and other engines, and the steam-boilers, donkey-engines, and other fixed appurtenances of the said motive-powers; and
- (2.) The fixed-power machinery, such as the shafts, wheels, drums, and their fixed appurtenances which transmit the action of the motive-powers to the other machinery, fixed and loose; and
- (3.) The pipes for steam, gas, and water, in the factory or workshop,

shall not be chattels within the meaning of this Act.

“Factory or workshop” means any premises on which any manual labour is exercised by way of trade or for purposes of gain, in or incidental to the following purposes, or any of them, that is to say:—The making of any article, or part of an article, or the altering, repairing, ornamenting, or finishing of any article, or part of any article; or the adapting for sale any article, or part of any article. “Factory.”

“Grantor” includes the bailee and lessee of any bill of sale by way of bailment or lease. “Grantor.”

“Grantee” includes the bailor and lessor of any bill of sale by way of bailment or lease. “Grantee.”

“Contemporaneous advance” means an advance of money by the grantee to or at the request of the grantor or the sale of goods or property upon credit, or the drawing, accepting, indorsing, making, or giving of any bill of exchange, promissory note, or the execution of any guarantee, bond, or other similar undertaking by the grantee to, for, or on behalf of the grantor on the security of any bill of sale, and contemporaneously with the granting, or within three days of the registration thereof. Any unpaid purchase money shall be deemed a contemporaneous advance if the bill of sale be executed within twenty-one days after the sale in respect of which such purchase money is owing. “Advance.”

63° VICTORIÆ, No. 45.

Bills of Sale Act, 1899.

- "Stock." "Stock" includes any sheep, cattle, horses, mules, asses, camels, pigs, and poultry.
- "Apparent possession." "Apparent possession."—Chattels shall be deemed to be in the apparent possession of the grantor of a bill of sale so long as they remain or are in or upon any lands, tenements, hereditaments, or building occupied or used by him, or are used or employed by him in any place whatsoever, notwithstanding that formal possession thereof may have been taken by or given to any other person.
- "Registrar." "Registrar" means the Registrar of the Supreme Court, and includes a Deputy or Acting Registrar.
- "Prescribed." "Prescribed" means prescribed by rules made under this Act.
- "Bill of sale by way of security." "Bill of sale by way of security" means a bill of sale to secure the payment of money or the performance of some obligation.

Registration.

- Bill of sale to contain names and addresses of parties.
6. EVERY bill of sale shall contain:—
- (1.) The names of the grantor and grantee, their residences or places of business, and their occupations; provided that it shall be sufficient to state the names by which the parties are usually known, and, in case of a corporation, to state the corporate name, with the principal place of business of the corporation in Western Australia.
- True consideration.
- (2.) The true consideration, and what portion, if any, is for an antecedent debt or contemporaneous advance; provided that the consideration shall be sufficiently stated, notwithstanding that the costs relative to such bill of sale shall have been deducted from or added to the amount of the expressed consideration.
- Where chattels situated.
- (3.) The place where the chattels therein referred to, other than after acquired property, are situated at the time of the granting of such bill of sale.
- The amount secured or rent payable.
- (4.) The sums, if any, thereby secured, and the true rate of interest, if any, payable, and in case of a security for a running account, open guarantee, or proposed further advances, the maximum amount of the balance or advances to be covered.

7. THE following classes of property may be assigned by bill of sale, either absolutely or by way of security, and shall be deemed to have been assigned at law as well as in equity, that is to say:—

Future crops and progeny of stock may be included in bill of sale.

- (1.) Crops (separately assigned) sown or growing at the time of the execution of the bill of sale, but without prejudice

63° VICTORIÆ, No. 45.

Bills of Sale Act, 1899.

to the rights of a prior *bona fide* purchaser or mortgagee by deposit or otherwise of the land on which any such crops shall grow.

- (2.) The progeny coming into existence during the operation of any bill of sale of or which comprises any stock.

And the possession of such mortgaged crops or progeny by the grantor or any person claiming through him shall, to all intents and purposes, be deemed the possession of the grantee. The assignment of all other after acquired property shall have the same effect as provided by the rules of common law or equity.

8. EVERY bill of sale shall be attested and registered under this Act in the following manner:—

Attestation and registration of bill of sale.

- (1.) The execution thereof shall be attested by at least one credible witness not being a party thereto.
- (2.) The attesting witness, or one of them, if two or more, shall make an affidavit stating—
- (a.) The place where and the date when the bill of sale was executed;
- (b.) The residence or place of business and the occupation of the grantor and grantee, or in case the same is made or given by any person under or in execution of any process, then of the residence or place of business and occupation of the person against whom such process issued; and
- (c.) The residence or place of business and the occupation, if known, of every attesting witness.
- (3.) The bill of sale with every schedule or inventory therein referred to or thereto annexed, and also a true copy of such bill of sale, schedule, or inventory, and of every attestation of the execution thereof, and the said affidavit shall be presented for registration to, and the said copy bill of sale and affidavit shall be filed with, the Registrar.

Upon the filing of such copy bill of sale the same shall be registered by the Registrar.

9. ANY affidavit required by this Act may be sworn before a Commissioner to administer oaths in the Supreme Court of Western Australia, or any Justice of the Peace of the Colony or any district of the Colony, or any Notary Public.

Who may swear affidavits.

63° VICTORIÆ, No. 45.

Bills of Sale Act, 1899.

Periods for registration.

10. THE periods within which a bill of sale shall be presented for registration shall be such as may be prescribed from time to time, but until rules are made hereunder and subject thereto, such periods shall be:—

Within 30 miles of Perth: 7 days.

(1.) Seven days from the day of execution, if executed at a place not more than thirty miles distant from the city of Perth.

200 miles: 14 days.

(2.) Fourteen days from the day of execution, if executed at or within fifty miles of the municipality of Albany, Southern Cross, Coolgardie, Kalgoorlie, Menzies, Geraldton, or Cue, or if executed at a place outside such limits, and being more than thirty miles distant from the said city, but not more than two hundred miles from the said city.

500 miles: 30 days.

(3.) Thirty days if executed at a place outside the limits aforesaid, and more than two hundred miles but less than five hundred miles from the said city.

Over 500 miles: 60 days.

(4.) Sixty days from the day on which it was executed, if executed at a place outside the limits aforesaid, and five hundred miles or more from the said city.

In East Kimberley or outside of the Colony: 21 days after post.

(5.) If executed within the magisterial district of East Kimberley within the Colony, or at any place out of Western Australia, then within twenty-one days after the time at which the bill of sale would, in the ordinary course of post, arrive in the said city, if posted immediately after the execution thereof.

Provided that the day on which the instrument is executed, shall not be included in the said periods: And provided further, that when the time for presenting a bill of sale expires on a day on which the Registrar's office is closed, the presentation shall be valid if made on the next following day on which such office is open.

Registrar shall file and register and keep "Register Book."

11. (1.) THE Registrar shall cause every bill of sale presented for registration under the provisions of this Act to be numbered, and shall mark on the filed copy thereof the date of the presentation and of the registration thereof and the number thereof and shall keep a "Register Book" in which shall be inserted the date when such bill of sale is registered, and the particulars, according to the form given in the Second Schedule to this Act.

(2.) The Registrar shall also keep an index of the names of grantors and grantees of bills of sale, with references to the entries in the register book of the bill of sale given by each such grantor.

63° VICTORIÆ, No. 45.

Bills of Sale Act, 1899.

(3.) Such index shall be arranged in divisions corresponding with the letters of the alphabet, so that all grantors and grantees whose surnames begin with the same letter (and no others) shall be comprised in one division, but the arrangement within each such division need not be strictly alphabetical.

(4.) Where a bill of sale has been made or given by any person under or in the execution of any process of Court, then the name, residence, and occupation of the person against whom such process was issued, and also the name of the grantee thereof, shall be inserted in the book to be kept as aforesaid.

Mode of registration where document given in execution of any process.

12. THERE shall be paid to the Registrar, upon presenting a bill of sale for registration, or upon the renewal of registration of every bill of sale, the fee of fifteen shillings, including the fee for filing the affidavit of execution or renewal.

Fees on registration.

13. A JUDGE of the Supreme Court on being satisfied that the omission to present for registration a bill of sale, or an affidavit of renewal thereof within the time required by or prescribed under this Act, or that any omission or misstatement in a bill of sale, or in any affidavit of any matter hereby required to be stated, was unavoidable, accidental, or due to inadvertence, may at any time order such omission or misstatement to be rectified, by extending the time for such registration, or by the filing of a supplementary affidavit, or by directing such matter to be stated and directing the rectification of the register, affidavit, or bill of sale or copy accordingly, and on such terms and conditions as he thinks fit.

Judge may extend time or amend error

Renewal of Registration.

14. (1.) THE registration of a bill of sale, executed after the commencement of this Act, shall, during the subsistence thereof, be renewed, in manner hereinafter mentioned, once in every period of three years commencing from the day of the registration.

Time for renewal.

(2.) The registration of any bill of sale registered under the provisions of any Act hereby repealed shall be renewed under this Act within five years from the last registration or renewal of registration thereof under such repealed Act, and thereafter the registration of such bill of sale shall be renewed as if the same had been executed after the commencement of this Act.

15. IF not so renewed such registration shall cease to be of any effect at the expiration of any period of three or five years, as the case may be, during which a renewal has not been made as hereby required.

If not renewed, document void.

63° VICTORIÆ, No. 45.

Bills of Sale Act, 1899.

Mode of renewal. 16. THE registration of a bill of sale shall be renewed by filing in the office of the Registrar an affidavit stating the residence and description of the grantor, and, in case of a bill of sale, by way of security the amount due thereon.

Registration of renewal. 17. THE Registrar shall thereupon number such affidavit as if the same were a bill of sale presented for registration, and re-number the copy of the bill of sale originally registered in the said office, with a similar number, and shall mark on the same the date of renewal of registration, and shall enter particulars in the register book in like manner as on an original registration, and shall also enter the date of renewal of registration in the column provided therefor.

Searches and Office-copies.

Search may be made of records. 18. THE Register Book and every bill of sale registered as aforesaid, or the filed copy thereof, may be inspected by all persons during the office hours of the Supreme Court, upon payment for every search against each person of the fee of one shilling.

Office-copy or extract may be taken. 19. ANY person shall be entitled to have an office-copy or an extract of any bill of sale, or the filed copy thereof, and of any affidavit filed under this Act, upon paying for the same at the rate of fourpence for every folio of seventy-two words contained in such copy or extract, or if he make such copy or extract himself the Registrar shall, upon satisfying himself that such copy or extract is correctly made, certify to the same upon payment of a fee of five shillings for each bill of sale or extract thereof.

Registration to be *prima facie* evidence of due execution, etc. 20. EVERY bill of sale registered and affidavit filed under this Act shall, if purporting to have been duly executed or sworn, be *prima facie* presumed to have been duly executed or sworn, and an office copy of any bill of sale or of the filed copy thereof and the schedules or inventories or affidavit purporting to be certified to by the Registrar (of whose signature judicial notice shall be taken in all Courts), and every certificate purporting to be signed by the Registrar of the time when the same shall have been registered or renewed shall, in all Courts, and before all arbitrators or other persons, be received as *prima facie* evidence of the contents of the bill of sale and the schedules or inventories thereto, or of the affidavit; of the signatures of the parties thereto who purport to have signed the same; of the signatures of the attesting witnesses thereto; of the fact that the said bill of sale has been duly registered and renewed and the affidavit duly filed, and of the time when the same shall have been registered or filed.

63° VICTORIÆ, No. 45.

Bills of Sale Act, 1899.

Entry of Satisfaction.

21. UPON the production to the Registrar of a memorandum of satisfaction of a bill of sale by way of security, signed by the grantee thereof, or his attorney, discharging the chattels comprised therein, or any specified part thereof, from the moneys secured thereby, or any specified part thereof, or from the performance of the obligation thereby secured, or any specified part thereof, and on production of such bill of sale and payment of a fee of five shillings the Registrar shall file such memorandum and make an entry thereof in the register book on the page where the bill of sale is registered. The execution of such memorandum shall be verified by the affidavit of the attesting witness thereto.

Memo. of satisfaction may be filed.

The Registrar may, in his discretion, dispense with the production of the bill of sale on proof to his satisfaction, by affidavit or otherwise, that the bill of sale has been destroyed, lost, or cannot be produced.

22. FROM and after the filing of any such memorandum the debt or charge created by the said bill of sale shall be discharged to the extent specified in such memorandum.

On filing memo. the debt shall be discharged.

23. IF the grantee of any bill of sale by way of security shall be absent from the Colony, and there be no known person in the Colony authorised to discharge the same on his behalf, at or after the date appointed for the payment by such bill of sale, the Registrar may receive such moneys in trust for the person entitled thereto, and may sign a memorandum of satisfaction in lieu of such person, and upon the filing of such memorandum the same shall be as effectual as a memorandum signed by the person entitled to such moneys.

If grantee absent the Registrar may receive money.

24. ANY Judge of the Supreme Court may order a memorandum of satisfaction to be filed in respect of any bill of sale by way of security if it shall appear to him that the debt (if any) for which such bill of sale is given as security has been satisfied or discharged, or that the obligation for securing the performance of which the bill of sale has been given has been performed, and thereupon such order may be filed by the Registrar and entered in his book in like manner as if the same had been a memorandum within the meaning of section twenty-one hereof.

Judge may order memorandum of discharge to be entered.

Effect of Registration.

25. EVERY bill of sale, unless complying with the terms of section six of this Act, and every debenture, unless complying with the terms of section fifty-one of this Act, and duly registered and

Effect of registration.

63° VICTORIÆ, No. 45.

Bills of Sale Act, 1899.

renewed in the manner and time herein provided, shall, upon the expiration of the time, or extended time for registration or renewal, be deemed fraudulent and void as against:

- (a.) The trustee or liquidator under the law relating to bankruptcy, insolvency, or winding up of the estate of the grantor.
- (b.) The assignee or trustee acting under any statutory assignment for the benefit of the creditors of such grantor.
- (c.) All sheriffs, bailiffs, and other persons seizing the chattels, or any part thereof, comprised in any such bill of sale, in the execution of any process of any Court authorising the seizure of the chattels of such grantor, and against every person on whose behalf such process shall have been issued,

so far as regards the property in or right to the possession of any chattels comprised in such bill of sale or debenture, which at or after the time of the presentation of the petition in bankruptcy, or winding up, or of the passing of an effective resolution for winding up, or of the execution of such assignment, or of executing such process (as the case may be), and after the expiration of the period within which such bill of sale or debenture is required to be registered, shall be in the possession or apparent possession of the grantor, or of any person against whom the process shall have issued under or in the execution of which such bill of sale has been made or given, as the case may be.

Application of
doctrine of "apparent
possession."

26. UNTIL the expiration of the time, or extended time, for registration of any bill of sale, and so long as such bill of sale continues to be registered hereunder, the chattels comprised in any bill of sale shall not be deemed to be in the possession, order, or disposition of the grantor within the meaning of any Act relating to bankruptcy or insolvency for the time being in force.

Bona fide purchaser
not affected by un-
registered bill of sale.

27. NO bill of sale shall be valid or effectual against any purchaser *bona fide* and for valuable consideration without express notice, unless such bill of sale shall, within the times aforesaid, be duly registered and renewed under the provisions of this Act.

Chattels liable to
distress for rates.

28. A BILL of sale, whether heretofore or hereafter executed, shall not protect the chattels therein comprised against any distress for any rates or taxes payable by the owner or occupier of any land under any existing or future Act of Parliament.

Extent of liability
for rent.

29. NO distress for any rent accrued, due after the registration of any bill of sale, made or levied upon any chattels comprised in any bill of sale hereafter registered, shall be available, except for four

63° VICTORIÆ, No. 45.

Bills of Sale Act, 1899.

weeks' rent where the premises or tenement is let by the week; for two terms of payment, but not exceeding three months, where the premises or tenement is let for any term less than six months; or for six months' rent where the premises or tenement is let for any longer term, unless the landlord shall pay off or discharge the liability on such bill of sale.

General.

30. IF any bill of sale shall be made or given subject to any defeasance, condition, or declaration of trust not contained in the body thereof, such defeasance, condition, or declaration of trust shall, for the purposes of this Act, be taken as part of such bill of sale, and shall be written on or a copy thereof annexed to the same paper or parchment on which such bill of sale shall be written, otherwise such bill of sale shall be void against the persons and to the extent mentioned in section twenty-five.

When instrument made subject to a defeasance not contained therein.

Provided that in the case of a document also securing the payment of the moneys payable under a bill of sale or any part of such moneys, it shall not be necessary for the purposes of this section to write such document on the same paper or parchment if the date, names of the parties thereto, and the amount secured by such document and short particulars of the property affected be set forth in such bill of sale or some schedule thereto.

This section shall not apply to any bill of exchange or promissory note comprising the amount secured or any part thereof.

31. EVERY bill of sale given absolutely or by way of security shall be fraudulent and void as against the trustee in bankruptcy or under any statutory assignment, and also as against the liquidator in the winding-up of the estate of the grantor if it has been executed within six months prior to the filing of the petition on which the order of adjudication or winding-up order, is made, or to the resolution for voluntary winding-up, or to the execution by the grantor of the assignment for the benefit of creditors except as to any contemporaneous advance and interest thereon, and except, also, as to any money advanced or paid, or the actual price of goods sold or supplied, or the amount of any liability undertaken by the grantee of such bill of sale or his assignee to, for, or on account of the grantor after the registration, but on the security of the said bill of sale, but not exceeding the maximum amount covered thereby.

Bill of sale void in certain cases except for present advances, etc.

32. EVERY bill of sale hereafter given absolutely or by way of security shall be fraudulent and void as against all sheriffs, bailiffs, and other persons seizing the chattels, or any part thereof, comprised therein in the execution of any process of any Court under any writ or warrant of execution issued within three months from

Bill of sale void as to execution on existing debts.

63° VICTORIÆ, No. 45.

Bills of Sale Act, 1899.

the registration of the said bill of sale on a judgment or order entered, made, or obtained in respect of a liquidated debt incurred by the grantor before the registration of the said bill of sale, and also against every person on whose behalf such process shall have issued, except as by the last preceding section mentioned.

Bill of sale takes effect from date.

33. EVERY bill of sale shall be deemed to be made on and shall only take effect from the day on which it is executed.

Priority of instruments affecting same chattels.

34. IN case two or more bills of sale are executed comprising in whole or in part any of the same chattels, priority shall be given to such bill of sale or bills of sale in the order of the date of their presentation for registration respectively as regards the title to or right to the possession of such chattels: Provided that such prior bill of sale shall not be affected if presented for registration within the time or extended time limited by this Act.

Avoidance of duplicate bills of sale.

35. WHERE a bill of sale is executed after the execution of a prior unregistered bill of sale, and comprises all or any of the chattels comprised in such prior bill of sale, then if such subsequent bill of sale is given as a security for the same debt or liability as is secured by the prior bill of sale, or for any part of such debt or liability, it shall to such extent and so far as respects the chattels comprised in the prior bill of sale, be void to the extent and as against the persons mentioned in section twenty-five hereof; unless it be proved to the Court having cognisance of the case that the subsequent bill of sale was *bona fide* given for the purpose of correcting some material error in the prior bill of sale, and not for the purpose of evading this Act.

Grantee may bid for and purchase chattels.

36. NOTWITHSTANDING any rule of law or equity to the contrary, the grantee of any bill of sale by way of security may at any time after he has demanded payment of the moneys or performance of the conditions secured by such bill of sale:

- (1.) Bid for and purchase the whole or any part or parts of the chattels comprised in such bill of sale at any public auction thereof held under the power of sale contained or implied in such bill of sale.
- (2.) Appoint in writing and from time to time remove any person as receiver and manager of the chattels comprised in any such bill of sale to obtain and hold possession thereof, and, if thought fit, to carry on any business in connection therewith pending the sale thereof, and such person shall have the same rights, powers, and privileges as if such person were appointed by the Supreme Court.

Bills of Sale Act, 1899.

The remuneration of such receiver and his costs and expenses shall be paid by the grantor, and shall be a first charge upon the chattels comprised in the bill of sale.

Bills of Sale of Stock.

37. IN any bill of sale comprising stock, the stock therein comprised shall be described or referred to therein by some brand or brands or other mark or marks on such stock, or shall be otherwise described or referred to by sex, age, name, colour, or otherwise, so as to be reasonably capable of identification; otherwise the same shall be void to the extent and as against the persons mentioned in section twenty-five hereof so far as regards such or so much of such stock as may not be so described or referred to or be otherwise reasonably capable of identification, and the land or premises on which such stock are shall be described or mentioned in such bill of sale: Provided that in any bill of sale over stock on any station or farm such stock shall be sufficiently identified by reference to the places where the same are usually depasturing.

Stock to be described, etc.

38. A BILL of sale comprising stock shall, unless the contrary be expressed therein, be deemed to include not only the stock comprised therein as provided by the last preceding section, but also the increase of such stock, and all stock the property of the grantor branded or marked, or which shall have been or be branded or marked with the brand or mark specified in the bill of sale which the grantor shall have covenanted by such bill of sale to so brand or mark, and which shall, after the execution of such bill of sale during the continuance of the security, be depasturing, or be at, in, or upon any lands or premises mentioned in such bill of sale.

Bill of sale of stock to include progeny.

Bill of Sale over Crops.

39. A BILL of sale, by way of security, may be granted over the crops described or referred to therein then actually sown in or growing upon the lands mentioned in such bill of sale, and shall entitle the grantee thereof to the whole of the crops therein mentioned, not only while growing, but afterwards when cut or separated from the soil, and stacked or stored on the land where grown, or on any other land or premises of the grantor or grantee.

Bill of sale may be granted over crops.

40. NO such bill of sale shall give any security over crops which, in the ordinary course of husbandry, cannot be harvested and taken off such land within one year from the date of the execution of such bill of sale.

Not available except against annual crops.

41. NO such bill of sale shall prejudicially affect the rights of any landlord or mortgagee of any land whereon the said crops shall

Saving of rights of landlord and mortgagee.

Bills of Sale Act, 1899.

be growing or stacked unless and to the extent to which such landlord or mortgagee has consented in writing to such bill of sale: Provided that no such bill of sale, if duly registered, shall be prejudicially affected by any subsequent sale, lease, mortgage, or other encumbrance of or upon the land described or referred to in such bill of sale, or in the schedule thereto.

Bill of Sale over Wool.

Bill of sale over wool.

42. A BILL of sale, by way of security, may be granted over the wool of the then next ensuing clip to be shorn from the sheep described or referred to therein and then depasturing upon the lands mentioned therein, and shall entitle the grantee thereof to the wool of such sheep, not only while growing but afterwards when shorn from the sheep, and stacked or stored on any premises of the grantor or grantee.

Not affected by subsequent dealing.

43. NO subsequent sale, bailment, mortgage, or other encumbrance of the sheep mentioned in any such bill of sale shall prejudicially affect such bill of sale or the rights of the grantee thereof to the wool specified or referred to therein.

Form of security.

44. ANY such bill of sale may be in the form set forth in the Fourth Schedule hereto.

Bill of sale over mortgaged sheep.

45. IT shall be lawful for the grantor of any bill of sale, by way of security over sheep, but only with the consent in writing of the grantee thereof, and to the extent authorised by such consent, to give a valid security as aforesaid on the next ensuing clip of the wool of such sheep.

Miscellaneous.

Bill of sale to secure less than £30 and secret bill of sale void.

46. EVERY bill of sale by way of security given or made in consideration of any sum or liability not exceeding Thirty pounds shall be void.

Covenants to be joint and several.

47. WHENEVER there is more than one grantor or more than one grantee of any bill of sale, then any covenants, conditions, provisos, powers, and agreements expressed in such bill of sale, and imposing an obligation on such grantors or grantees, or insuring for the benefit of such grantors or grantees, shall be deemed to impose such obligations or confer such benefits as the case may be, severally as well as jointly unless and in so far as a contrary intention appears.

Covenants to bind representatives.

48. IN any bill of sale, unless the contrary be expressed, all covenants, conditions, provisos, powers, and agreements therein expressed shall bind the executors, administrators, and assigns of the person upon whom such covenants, provisos, powers, and agree-

63° VICTORIÆ, No. 45.

Bills of Sale Act, 1899.

ments shall impose an obligation, and shall operate for the benefit of the executors, administrators, and assigns of the person for whose benefit the same shall inure.

49. EVERY grantor of a bill of sale who, by sale or delivery of any chattels comprised in or affected by such bill of sale, without the written consent of the grantee, or by any other means shall defraud or attempt to defraud the grantee of the same or any part thereof, and thus, or by any other means, directly or indirectly defeat, invalidate, or impair his security over or property in the same, and every person who shall aid and abet any person whomsoever in defrauding or attempting to defraud the grantee by defeating, invalidating, or impairing such bill of sale, or in attempting to do so, shall be guilty of a misdemeanour, and shall be liable, on conviction thereof, to a fine not exceeding One hundred pounds, with or without imprisonment and with or without hard labour for any period not exceeding two years: Provided that in respect of an instrument comprising stock under section thirty-seven or section thirty-eight hereof, the shearing of sheep given as security, and the sale or disposal of the wool of such sheep, in the ordinary course of business, before default shall have been made and possession taken or demand for payment made under the bill of sale creating such security, shall not be deemed an offence under this section.

Attempt to defraud
grantee punishable
as misdemeanour.

50. RULES for the purposes of this Act may be made and altered from time to time by the like person and in the like manner in which rules and regulations may be made under and for the purposes of the Supreme Court Act, 1880.

Rules.

Debentures.

51. EVERY debenture issued by any company or other incorporated body registered or incorporated or carrying on business in Western Australia shall be registered under this Act in the following manner:—

Registration of
debentures.

(1.) A written notice in the form and containing the information indicated in the Fifth Schedule hereto shall be presented to and filed with the Registrar, who shall indorse thereon the date of such filing. A copy of the debenture, or if a series of debentures be issued, a copy of one debenture of each series shall accompany and be filed with such notice.

(2.) Registration of a debenture, or of a series of debentures, may be renewed by the holder of any debenture, or by any officer of the company or body issuing the same.

The renewal of registration of any one debenture of a series shall be deemed a renewal of all the debentures of such series.

63^o VICTORIÆ, No. 45.

Bills of Sale Act, 1899.

Application of prior sections.

52. (1.) SECTIONS nine to thirty-six, both inclusive (except section thirty), and also sections forty-six to fifty, both inclusive, of this Act shall apply, *mutatis mutandis*, to every debenture issued as aforesaid;

(2.) Such sections shall be read as if "Debenture" were throughout substituted for "Bill of Sale."

(3.) The presentation of the written notice aforesaid shall be deemed to be the presentation of the debenture for registration.

When more than one debenture is issued.

Fifth Schedule.

53. IF more than one debenture is issued or is to be issued in the same series, the form in the Fifth Schedule shall state such fact, and every debenture of such series shall be deemed registered on compliance with the provisions of section fifty-one as to any one debenture or proposed debenture of such series: Provided that no debenture of any such series shall be protected or be deemed registered unless the same is actually issued and taken up or allotted within six weeks from the compliance with the provisions of section fifty-one.

Exceptions.

54. NOTHING in this Act contained shall apply to any agreement for the hire, with or without a right of purchase, of any sewing-machine, piano, typewriter, or gas, electric light, or water meter.

In the name and on behalf of the Queen I hereby assent to this Act.

GERARD SMITH, Governor.

63° VICTORIÆ, No. 45.

Bills of Sale Act, 1899.

SCHEDULES.

First Schedule.

Section 4.

No. of Act.						Extent of Repeal.
30	Victoria,	5	...	...	...	The whole.
43	"	19	...	...	...	"
55	"	7	...	...	...	"
56	"	11	...	...	...	"
55	"	32	...	...	...	Sub-section 2 of Section 46.
62	"	15	...	...	...	So much of Section 53 as refers to 55 Victoria, No. 32, Section 46.

Second Schedule.

Section 11.

Register Book.

No.	By whom given, or against whom Process issued.			To whom given.			Nature and Date of Instrument.	Consideration.	Date of lodging notice of intention to register.	Date of Registration.	Date of Renewal.	Satisfaction entered.
	Name.	Residence.	Occupation.	Name.	Residence.	Occupation.						

Third Schedule.

Section 39.

The following form of bill of sale under section thirty-nine may be used :—

In consideration of (*here set forth the consideration*), the receipt whereof is hereby acknowledged, I (*set forth full name, address, and occupation*) do hereby sell and assign to (*set forth full name, address, and occupation of grantee*) all that and those the crops now actually sown in or growing upon the following lands (*describe lands specifically*), to hold the same crops as security for the repayment of the moneys aforesaid. The said crops shall be gathered and stacked at my expense and delivered to the said (*grantee*) on demand.

Dated this day of , 19 .

Signed in the presence of

63^o VICTORIÆ, No. 45.

Bills of Sale Act, 1899.

Section 44.

Fourth Schedule.

Lien on Wool.

In consideration of (*here set forth the consideration*) the receipt whereof is hereby acknowledged, I (*here set forth full name, address, and occupation*) do hereby give to (*set forth full name, address, and occupation of grantee*) a preferable lien to the extent of the amount aforesaid on the wool of the ensuing clip to be shorn from my flocks of sheep, numbering , or thereabouts, and now depasturing at , under the superintendence of , and branded . The wool shall be shorn at my expense and delivered to the order of the said (*grantee*) at .

Dated this day of , 19 .

Signed in the presence of .

Section 51.

Fifth Schedule.

The (*set forth accurately the full name of Company or Corporate Body and name of registered or principal place of business in Western Australia*) has issued (*or proposes to issue*), and desires to register Debentures to secure the payment of (*state principal sum*) together with interest at the rate of £ per centum per annum.

The said Debentures bear date (*or are to be issued on or before*) the day of 19 .

The property comprised (*or to be comprised*) in the said Debenture is as follows (*set forth a description of the property charged in the same manner as the same is described in the Debenture*).

NOTE.—If more than one Debenture is or is proposed to be issued of the same date or series, state the number issued or to be issued, and the nominal amounts thereof.

A copy of the said Debenture (*or if a series be issued, a copy of one of the Debentures of the series*) is annexed hereto and filed herewith.

(The annexed copy is to be verified by the Secretary, Local Attorney, or other Officer of the Company or Corporate Body. In case interest coupons are attached, they need not be copied.)

Dated this day of 19 .

(*To be signed by the grantor or its Secretary, Solicitor, or Attorney.*)