



ANNO QUADRAGESIMO OCTAVO ET QUADRAGESIMO
NONO

VICTORIÆ REGINÆ.

A.D. 1885.

No. 364.

An Act to consolidate and amend the Laws relating to
Bills of Sale of Personal Chattels, Liens on
Wool, and Mortgages of Sheep, Cattle and
Horses.

[Assented to, December 11th, 1885]

WHEREAS it is desirable to consolidate and amend the law relating to bills of sale of personal chattels and of liens on wool, mortgages of sheep, cattle, and horses, and for other purposes—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

Preamble

1. This Act may be cited as “The Bills of Sale Act, 1885.”

Short title.

2. This Act shall come into operation on the first day of January, one thousand eight hundred and eighty-six, and apply to every bill of sale, whether absolute or conditional, executed after the coming into operation of this Act.

Commencement of Act, and to extend to bills of sale.

3. In this Act the following words shall have the meanings in this section assigned to them unless there be something in the subject or context repugnant to such construction—

Interpretation of terms.

“Grantor” shall mean the person giving the bill of sale, or in the case of an agreement for the hire of personal chattels the person hiring the same, and shall include his or her executors, administrators, and assigns:

Grantor.

“Grantee”

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Grantee.

“Grantee” shall mean the person to whom such bill of sale is given, and in the case of an agreement for the hire of personal chattels the owner or person lending the same, and shall include his or her executors, administrators, or assigns:

Registrar.

“Registrar” shall mean the Registrar-General and every acting Registrar-General and Deputy Registrar appointed under the provisions of an Ordinance, No. 8 of 1841, intituled “An Act to provide for the Registration of Deeds, Wills, Judgments, Conveyances, and other Instruments,” and shall include the Deputy Registrar appointed under the provisions of the Northern Territory Registration Act, No. 135, 1879:

Registry.

“Registry” shall mean the General Registry Office, at Adelaide, established under the said Ordinance, No. 8, 1841, and the branch registration office, established at Palmerston, in the Northern Territory, under the said Act, No. 135, 1879:

Bill of sale.

“Bill of sale” shall include bills of sale, assignments, transfers, declarations of trust without transfer, or marriage settlements, whether before or after marriage, inventories of goods, with receipt thereto attached, or receipts for purchase-moneys of goods and other assurances of personal chattels, and also powers of attorney, authorities, or licences to take possession of personal chattels as security for any debt, and also any agreement, whether intended or not to be followed by the execution of any other instrument by which a right in equity to any personal chattels, or to any charge or security thereon shall be conferred, and every document whereby a power of distress is given, or agreed to be given, by way of security for any guarantee or any debt advance, whether present, past, or future, or whereby any rent is reserved for the purpose of such security only, and, unless there be something in the context to denote a contrary intention, it shall include every agreement for the hire of personal chattels, with or without right of purchase, whereby the grantee shall reserve to himself the right of ownership, or any right of seizure, either wholly or conditionally, but shall not include the following documents:—Assignments for the benefit of creditors made pursuant to any statutory provision, any lease or tenancy of any land or hereditaments reserving the payment of rent and a power to distrain for which is implied by law, transfer 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, bills of sale of goods in foreign parts or at sea, bills of lading, warehousekeepers’ certificates, dock warrants, 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 by delivery, the possession of such document, to transfer or receive goods thereby represented: “Personal

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“Personal chattels” shall mean horses, cattle, sheep, furniture, goods chattels, and other articles capable of complete transfer by delivery, and (when separately assigned or charged) fixtures or growing crops; but shall not include chattel interests in real estate, nor fixtures (except trade machinery, as hereinafter defined), when assigned together with a freehold or leasehold interest in any land or building to which they are affixed, nor growing crops when assigned together with any interest in the land on which they grow, nor debentures, shares, or interests in the stock, funds, or securities of any government, or in the capital or property of any loan, mortgage, or incorporated or joint-stock company, nor choses in action: Personal chattels.

“Apparent possession”: Personal chattels shall be deemed to be in the apparent possession of the grantor so long as they remain or are in or upon any land or messuage occupied by him, or are used and enjoyed by him in any place whatsoever, notwithstanding that formal possession thereof may have been taken by or given to any other person: Apparent possession.

“Advance” shall include as well an advance of money by the grantee to the grantor as the sale of any goods or property upon credit, or any bill of exchange, promissory note, or guarantee, or any other matter or thing advanced, made, or given to the grantee by the grantor on the security of any such bill of sale: Advance.

“Prescribed” means prescribed by rules made under the provisions of this Act. Prescribed.

“Trade machinery” shall, for the purposes of this Act, be deemed to be personal chattels, and mean the machinery used in or attached to any factory or workshop, exclusive of— Trade machinery.

1st. The fixed motive powers, such as the water wheels, steam engines and donkey engines, gas engines, together with the boilers and other fixed appurtenances of the said motive powers; and

2nd. The fixed power on 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

3rd. The pipes for steam, gas, and water in the factory or workshop.

No fixtures or growing crops shall be deemed to be separately assigned or charged by reason only that they are assigned by separate words, or that power is given to sever them from the land or building to which they are affixed, or from the land on which they grow, if by the same instrument any freehold or leasehold interest in the land or building to which such fixtures are affixed, or in the land on which such crops grow, is also conveyed, mortgaged, or assigned to the same persons or person. Fixtures and crops not to be deemed separately assigned when land passes by the same instrument

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Subject-matter of
Act.

4. The subject-matter of this Act shall be divided into the following parts—

PART I.—Branch Office :

PART II.—Form of Bills of Sale and the Contents thereof :

PART III.—Registration of Bills of Sale and other dealings :

PART IV.—Disposition of Personal Chattels in Case of Insolvency or Distress :

PART V.—Miscellaneous.

PART I.

Branch office at
Palmerston.

PART I.

BRANCH OFFICE.

5. It shall be lawful for the Governor, by Proclamation in the *Government Gazette*, to establish at Palmerston, in the Northern Territory, a public office for the registration of bills of sale, and such office shall be deemed to be a branch of the General Registry Office, at Adelaide; and until any such Proclamation shall have been issued the branch registration office established under the said Act, No. 135, 1879, shall be the branch office, at Palmerston, for the registration of bills of sale under the provisions hereof.

Deputy Registrar to
act at branch office.

6. The branch office shall be presided over by a Deputy Registrar, to be appointed by the Governor, and such Deputy Registrar shall, in the branch office, exercise and execute, in relation to the registration of bills of sale, the like powers and duties as are exercised and executed by the Registrar-General in the General Registry Office, at Adelaide; and, until such appointment, the Deputy Registrar appointed under the said Act, No. 135, 1879, shall continue to act as the Deputy Registrar of the said branch office, at Palmerston.

Oath of Deputy
Registrar.

7. An oath of office, similar to that provided for by section II. of the said Act, No. 8, 1841, may be taken by such Deputy Registrar before the Government Resident of the Northern Territory, or any Special Magistrate there, who are hereby empowered to administer the same.

PART II.

Form of bill of sale.

PART II.

FORM OF BILLS OF SALE AND THE CONTENTS THEREOF.

8. Every bill of sale shall be executed in duplicate, and may be in the form of the First Schedule hereto, or as near thereto as the circumstances will permit, and no bill of sale shall be invalid for any variance therefrom in form only.

Bill of sale to have
effect of a deed.

9. Every bill of sale, when registered, shall have the effect of and be deemed and taken to be a deed duly executed by the parties who have signed the same.

10. Every

*The Bills of Sale Act.—1885.***10.** Every bill of sale shall contain—**PART II.**

Contents of bill of sale.

1. The Christian and surnames of the grantor and grantee, and their residence and occupation: Provided that it shall be sufficient to state the names by which the grantor or grantee is usually known:
2. A true statement of the consideration thereof (except in the case of an agreement for the hire of personal chattels); what portion (if any) of the consideration therein set forth is for an antecedent debt or contemporaneous advance:
3. If given for further advances, the amount up to which such advances are agreed to be made:
4. A description of the personal chattels comprised therein; and in case the personal chattels consist of horses, cattle, or sheep, the brands or other distinctive marks thereof:
5. Where such personal chattels are situated at the time of the giving of such bill of sale:
6. The principal sum and interest (if any) thereby secured, and the dates or times appointed for repayment thereof, or in the case of an agreement for hire, the rent reserved in such agreement, and if let with right of purchase, the amount for which the grantor may purchase the same, and the dates appointed for payment of such rent and purchase-money.

11. Every unpaid vendor of personal chattels comprised as after-acquired property in any bill of sale shall, notwithstanding, and in priority to any such bill of sale, have a lien as against the grantee upon such personal chattels for the unpaid purchase-money thereof: Provided that in case of any sale by the grantee of such after-acquired property before the same shall have been paid for he shall be liable to pay the net proceeds, not exceeding the unpaid balance of such purchase-money, to the unpaid vendor, who may sue for and recover the same as money had and received for such vendor.

Unpaid vendors protected to extent of unpaid purchase-money.

1. Crops (separately assigned) growing at the time of the execution of the bill of sale:
2. The progeny of any horses coming into existence during the operation of any bill of sale, or of any horses, cattle, or sheep comprised therein:
3. The wool of the then next ensuing clip of any sheep then the property of the grantor:

shall not be deemed after-acquired property.

12. The following covenants and powers shall be implied in every bill of sale for the securing of any sum of money in favor of the grantee, unless negatived or modified:—

Covenants to be deemed implied in bills of sale.

1. That the grantor shall pay to the grantee the principal and interest

That he will pay principal and interest money.

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That he will not
remove the goods and
chattels.

That he will not
suffer the goods to be
taken in execution.

To produce receipts
for rent, &c.

To enter and view
the goods, &c.

Power of sale in case
of default.

interest money secured, or intended to be secured, by such bill of sale, at the time and in manner therein provided for payment thereof:

2. That the grantor shall not, without the consent in writing of the grantee, sell, exchange, or fraudulently remove the personal chattels comprised in any such bill of sale from the premises mentioned therein, and will at all times keep such personal chattels in good order and condition:
3. That the grantor shall not suffer the personal chattels comprised in any such bill of sale to be distrained for any rent, rates, or taxes, nor suffer any execution to be levied against his goods and chattels, nor suffer himself to be taken in execution or become insolvent, or make any statutory assignment for the benefit of his creditors:
4. That the grantor will produce to the grantee, upon demand, the last receipt for all rent, rates, and taxes in respect of the premises wherein the personal chattels shall be:
5. That the grantee may, by himself or his agents, at all reasonable times, enter upon such of the grantor's premises whereon the personal chattels are kept, and view the state and condition of such personal chattels, and that the grantor will show forth and produce to the grantee all and singular the personal chattels comprised in such bill of sale, and permit the grantee to take an inventory thereof:
6. That if the grantor shall make default in the payment of the principal or interest money thereby secured at the time provided for payment thereof, or in the observance or performance of any one of the covenants, terms, conditions, or agreements, whether expressed or implied, in such bill of sale, it shall be lawful for the grantee forthwith, without any further consent or concurrence on the part of the said grantor, to enter into and upon the land, messuage, or tenement whereon the said personal chattels assigned are, or into or upon any other land, messuage, or tenement on or in which such personal chattels, or any other personal chattels comprised and included in such bill of sale respectively, may be, and for that purpose to open or remove any outer or inner gate, door, fastening, or other obstruction, without liability to any action of trespass, or other proceeding for so doing; but with liberty to plead the leave and licence thereby given in bar to any such action or proceeding, if any such be brought or instituted, and to seize and take possession of all such personal chattels, and so soon thereafter as the grantee may lawfully do so, to remove or carry away such chattels and premises to any other place or places for safety, convenience of sale, or otherwise, or suffer them to remain in the place or places where the same may be found, and then to sell and dispose of such chattels and premises, or any of them, either together or in parcels, at such

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such time or times, and place or places, and either by public auction or private contract, or partly by public auction and partly by private contract, to any person or persons, for such price or prices, either for cash or on credit, or partly for cash and partly on credit, and if either wholly or partly on credit, giving such time or times for payment, and taking or foregoing any security or securities for the payment of the unpaid purchase-money as the said grantee may deem proper or expedient, with power for him to make any such other terms and conditions in regard to such sale or sales as he may think proper, and also to buy in all or any of the said chattels and premises at any such sale or sales by auction, and rescind or vary any contract for sale thereof, and again to resell or offer for resale, the same from time to time, without being answerable or accountable for any loss, diminution in price, costs, or expenses to be occasioned by any such actual or attempted resale:

7. That it shall be lawful for the said grantee, upon or after any such sale as aforesaid, to make, enter into, and sign, and execute all such contracts, agreements, deeds, instruments, and writings as may be necessary or expedient for the purpose of making and effectuating any such sale, and which shall be as binding and conclusive upon and against the said grantor as if he or they had joined therein, or assented thereto. And also that the receipt or receipts in writing of the said grantee for all purchase-money or other property which shall be paid or delivered to him or them under or by virtue of these presents, shall be a good and sufficient discharge or good and sufficient discharges to all purchasers or other persons paying or delivering the same, and such purchaser or other persons shall not be required to see to the application, or be answerable for the misapplication or nonapplication thereof, or be bound or concerned to inquire into the propriety or expediency of any such sale or resale:

To execute deeds for purpose of carrying out sale.
8. That the said grantee shall stand possessed of the moneys which shall come to his or their hands by reason of any such sale or sales, upon trust in the first place, to discharge the costs and expenses incurred or sustained in or about such sale or sales, and all other costs, charges, and expenses incurred or occasioned in or about the execution of the powers and authorities contained in the bill of sale, and then to retain the balance of such moneys, or so much thereof as may be necessary, in or towards payment and satisfaction of all moneys due and owing to him upon the security of such bill of sale, and the surplus then remaining to pay to the said grantor:

Purchase-money to be applied in satisfaction of security.
9. And where the security is on the wool of any sheep the following further covenant shall be implied in favor of the grantee:—That, if the grantor shall fail or neglect to shear the

Grantee may shear sheep in case of default.

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the said wool in a proper manner, and at a seasonable time, it shall be lawful for the grantee, with shearers, workmen, and others, to enter the grantor's lands and premises, and to take possession of the sheep whose wool shall be assigned by such bill of sale, and to remain upon the grantor's lands and premises for such time as may be necessary, and at his costs and expenses to shear the said sheep, and to pack, cart, remove, and sell the said wool; and that the grantee shall not be responsible to the grantor for any injury done to such sheep whilst the same are being shorn.

Abbreviated form of word "insure."

13. The words "That the grantor will insure" in any bill of sale shall imply—That the grantor will, so long as any money shall remain due from him to the grantee, keep insured in some public insurance office, to be approved of by the grantee, against loss or damage by fire the personal chattels comprised in such bill of sale to the full amount then due thereon, and will hand over to the grantee the policy of such insurance and produce to him the receipts for the annual or other periodical premiums payable on account thereof, and that all moneys payable by virtue of such insurance shall be received by the grantee towards satisfaction of the moneys due on such security. Provided also that if default shall be made by the grantor in effectuating such insurance, it shall be lawful for but not obligatory upon the grantee (without prejudice to any other remedy) to insure the said personal chattels, and the money paid on account of such insurance shall be a charge on the said personal chattels.

Bill of sale to be attested by witness.

14. The execution of a bill of sale, or any transfer, renewal, or discharge, shall be attested by one or more credible witnesses, not being a party thereto.

Execution may be proved by statutory declaration.

15. The execution of any bill of sale, or of any transfer, renewal, or discharge thereof may be proved before any Registrar, Justice of the Peace, or Notary Public, by the declaration of one of the attesting witnesses thereto, which declaration shall be in the form of the Second Schedule hereto, or as near thereto as circumstances may require, and shall be taken in all courts of law as *prima facie* evidence of the due execution of such bill of sale, transfer, renewal, or discharge.

PART III.**PART III.****REGISTRATION OF BILLS OF SALE AND OTHER DEALINGS.**

Bill of sale to be registered at registry office, Adelaide.

Except when executed in the Northern Territory.

16. All bills of sale (except such as are next hereinafter directed to be registered in the branch registry office, at Palmerston), and every subsequent dealing capable of being registered shall be registered in the General Registry, at Adelaide; and all bills of sale given or executed by any party thereto in respect of personal chattels in the Northern Territory, and every subsequent dealing with such bill of sale, and capable of registration, shall be registered in the said branch office, at Palmerston.

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17. Upon the registration of every bill of sale at the said branch office, at Palmerston, a copy thereof, for transmission to the General Registry Office, at Adelaide, shall be lodged with the Deputy Registrar, who shall, at the end of every month, or so soon thereafter as shall be practicable, forward the same with a copy of its registration to the Registrar, at Adelaide, to be filed, preserved, and kept open for public inspection.

Copy of bills of sale registered at Palmerston to be forwarded to General Registry Office.

18. Every bill of sale shall be registered within fourteen days from the making thereof; and no bill of sale shall thereafter be capable of registration.

Bill of sale to be registered.

19. All bills of sale shall be registered in the order of time in which the same are produced for that purpose, and shall, in respect to the personal chattels comprised therein, be entitled to priority according to the date of registration.

To be registered in the order of production.

20. For the purpose of such registration every bill of sale shall be lodged with the Registrar in duplicate, who shall endorse upon each copy thereof a certificate of registration, stating the consecutive registration number of such bill of sale, and the day and hour of the production thereof for registration, and such certificate shall be in the form of the Third Schedule hereof, and be authenticated by the seal and signature of the Registrar, and the original shall be filed in the registry, and the duplicate be delivered to the person entitled thereto, and the production of such duplicate, with such certificate duly endorsed thereon, shall be *prima facie* evidence of the due registration of such bill of sale.

Bills of sale, how to be registered.

21. A transfer or assignment of a registered bill of sale may be made by endorsement in the form of the Fifth Schedule hereto, and the assignee may produce the same to the Registrar for registration, who shall thereupon enter on the copy filed by him in the registry the name of such assignee, and the date and hour of such registration, and authenticate the same by his seal and signature, and thereupon the assignee shall be deemed to be the registered owner of such bill of sale.

Form of transfer of bill of sale and registration thereof.

22. An extension of the time for the repayment of the moneys secured by a bill of sale may be effected by endorsing upon the duplicate of the bill of sale the word "Extended," signed by the grantor and grantee, and duly attested in the manner provided by section 14 hereof, which shall mean a further extension for the period of one year, and upon the terms in such bill of sale contained; or if such extension is for any other period or upon any other terms, such further words may be added as the circumstances may require. And the Registrar upon receiving such extension for registration, shall enter particulars thereof on the copy filed by him, and the date and hour of the production thereof, and authenticate such registration by his seal and signature.

Bill of sale may be extended.

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Bill of sale, how
discharged.

23. A bill of sale may be discharged, or partly discharged, by a receipt endorsed on such bill of sale in the form in the Fourth Schedule hereto, and the Registrar, if required so to do, shall register such discharge by entering the same upon the bill of sale filed in the registry, together with the date and hour of such entry, and authenticate such registration as aforesaid; and thereupon the personal chattels comprised in any such bill of sale shall be discharged from the payment of the principal and interest to the extent of any such receipt, and if such discharge shall be for the whole of the money thereby secured, the duplicate bill of sale shall be retained by the Registrar to be filed in the registry.

Discharge may be
endorsed on original
filed in registry.

24. If any person shall prove to the satisfaction of the Registrar that any duplicate bill of sale has been lost, he may permit any such receipt to be endorsed on the bill of sale filed in the registry.

Index to be kept by
Registrar.

25. The Registrar shall keep an alphabetical index of the names of every grantor and grantee named in such bill of sale, together with the reference to the registrations.

Omissions and errors
in the registry may
be corrected.

26. The Registrar, upon being satisfied that any omission or error has occurred in any bill of sale, transfer, renewal, or discharge, or in the registration thereof, may summon the grantee or grantor, or other holder of such bill of sale, transfer, renewal, or discharge, to attend before him, at such time and place as he shall direct, to show cause why such error or omission should not be corrected, and in case such grantee or grantor shall not attend, or if he shall attend, and the Registrar shall be satisfied that such error or omission ought to be corrected, then the Registrar shall (unless prohibited by the Supreme Court, or a Judge thereof) proceed to make such correction accordingly.

In case of variance,
copy in registry to
prevail.

27. Whenever there shall be any difference or variation between the contents of any bill of sale filed in the registry office and the duplicate copy, the copy filed in the registry shall prevail.

Search allowed.

28. Every person shall have access to any bill of sale filed in the registry, for the purpose of inspection, during the hours and upon the days appointed for search.

PART IV.**PART IV.****DISPOSITION OF CHATTELS IN CASE OF INSOLVENCY OR DISTRESS.**

Bills of sale contrary
to sec. 20 of this Act
to be void against
trustees in insolvency,
&c.

29. Every bill of sale which shall not contain the particulars set forth in the twentieth section hereof, or shall not be registered, or of which the registration shall not be renewed within the time hereinbefore provided, shall be void, as against—

(a) The trustees in insolvency of the grantor:

(b) The

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(b) The trustees of the estate of such grantor under any statutory assignment for the benefit of his creditors:

(c) Judgment creditors:

(d) All sheriffs' officers and other persons seizing any personal chattels comprised in such bill of sale in the execution of the process of any court:

so far as regards the property in or right to the possession of any chattels comprised in such bill of sale which at or after the time or filing the petition for insolvency, or of the execution of such assignment, or of executing such process (as the case may be), and after the expiration of such period allowed for registration or renewal, are in the possession, or apparent possession, of the person making such bill of sale.

30. Personal chattels comprised in any bill of sale given for any antecedent debt, which has been duly registered for ninety days prior to any petition for adjudication of insolvency against the grantor, or any meeting of creditors, convened pursuant to any statute antecedent to the execution by the grantor of a statutory deed of assignment, for the benefit of creditors, and all personal chattels comprised in any agreement for the hire of such personal chattels, and which shall not have been paid for by the grantor, and all personal chattels comprised in any bill of sale, the whole of the consideration for which shall be a contemporaneous advance to the grantor at the time of the execution of such bill of sale, shall not be deemed to be in the possession, order, or disposition of the grantor of the bill of sale at the time of the filing of such petition, or meeting.

Personal chattels,
when protected
against insolvency.

31. Every grantee shall, so far as any bill of sale may be partly for an antecedent debt, and partly for a contemporaneous or further advance (without prejudice to any right acquired after the expiration of the period of ninety days referred to in the preceding section), be entitled to a lien on the personal chattels of any grantor comprised in such bill of sale subject to section 11 hereof, and which may be in the grantor's possession, order, or disposition, at the time of the filing of such petition, or meeting, to the extent of the money actually advanced at the time of or subsequently to the making of such bill of sale.

Bills of sale given
partly for contemporaneous or further advance, to be only partly secured in case of insolvency.

32. A bill of sale shall not protect the personal chattels therein comprised against any distress for any rates or taxes payable by the owner or occupier of any land under any Act of Parliament.

Rates may be levied
on goods comprised
in bill of sale.

33. No distress of any rent made and levied upon any personal chattels comprised in any duly registered bill of sale shall be available except for four weeks' rent where the tenement is let by the week; for two terms of payment (but not exceeding three months) where the tenement is let for more than one week but not more than

Distress not to be
levied against goods
in bill of sale except
for a limited amount.

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six months; and for twelve months' rent where the tenement is let for any longer term, unless the landlord shall pay off the sum of money owing on such bill of sale.

Trustee in insolvency may apply to be registered as owner of bill of sale.

34. Upon the grantee of any bill of sale becoming insolvent or making any statutory assignment as aforesaid, the Registrar, upon application in writing by the Official Receiver or trustee, accompanied by the duplicate bill of sale, and an office copy of the appointment of such trustee, or the production of such assignment, shall enter on the bill of sale filed in the registry, and also on the duplicate bill of sale, a memorandum of such appointment and the hour and date of such entry, and authenticate such entry by his seal and signature; and upon such entry being made, such Receiver or trustee shall be deemed to be the registered proprietor of such bill of sale. But if such assignment shall be declared fraudulent and void according to law, the Registrar, upon being certified thereof by any order under the hand and seal of the Commissioner of Insolvency, or any magistrate of a Local Court of Insolvency, and of the appointment of trustees in insolvency, shall notify the same upon the bill of sale filed in the registry; and thereupon such trustee, or in case there shall be no trustee appointed, the Official Receiver in such order mentioned shall be deemed to be such proprietor.

PART V.**PART V.****MISCELLANEOUS PROVISIONS.**

Implied covenants may be modified.

35. Every covenant and power implied in any bill of sale may be negatived or modified by express declaration therein.

Seal of Registrar.

36. The seal of the Registrar-General appointed and acting as Registrar-General under the provisions of the Real Property Act, 1861, shall be the seal of every Registrar under this Act.

Fees to be taken by Registrar.

37. It shall be lawful for the Registrar to demand and receive such fees as shall be appointed by the Governor, not in any case exceeding the several fees set forth in the Sixth Schedule hereof, to be accounted for by him and paid into the public treasury of the said province.

Solicitors and brokers only to recover fees.

38. No practitioner of the Supreme Court or licensed land brokers shall recover any fees for preparing any document under this Act other than those set forth in the Seventh Schedule hereto.

Goods not to be sold until five days after seizure.

39. No personal chattels, except such as may be of a perishable nature, which shall be seized upon any lands or premises upon or in which the same shall have been put or placed by the grantor with the grantee's permission, shall be removed or sold until five days after such seizure, unless the grantor shall have paid all rent which may accrue due before the expiration of such five days.

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40. Any person who shall conceal, sell, pawn, kill, or destroy any personal chattels comprised in any bill of sale, with intent to deprive the grantee of his security, shall be guilty of a misdemeanor, and be liable to imprisonment, with or without hard labor, for a term not exceeding two years.

Fraudulently disposing of goods to be misdemeanor.

41. Any person guilty of making a false declaration concerning any matter or procedure to be done in pursuance of this Act, shall be guilty of perjury, and liable to imprisonment not exceeding two years.

False declaration to be perjury.

42. The Governor may make such necessary regulations, not inconsistent with this Act, as may be desirable for the convenient administration and the objects and purposes thereof.

Governor may make regulations.

43. All regulations shall be published in the *Government Gazette*, and within fourteen days after making thereof shall be laid before both Houses of Parliament, if then sitting; and if Parliament be not then sitting, then within fourteen days after the beginning of the next session thereof, and shall have the force of law from the date of such publication.

Regulations to be published.

44. The several Acts mentioned in the Eighth Schedule hereto are hereby repealed to the extent set forth in the last column of such Schedule; but this repeal shall not affect—

Repeal

- i. Anything done or suffered under any enactment hereby repealed: nor
- ii. Any right, privilege, power, obligation, or liability acquired, accrued, or incurred under any enactment hereby repealed: nor
- iii. Any investigation, legal proceeding, or remedy in respect of such right, privilege, power, obligation, liability:

And any rule, by-law, or regulation heretofore in force, where applicable, shall continue in force until cancelled or amended under the authority of this Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WILLIAM C. F. ROBINSON, Governor.

SCHEDULES REFERRED TO.

FIRST SCHEDULE.

Bill of Sale.

Sec. 8.

I, (or we) [*state the full or usual Christian names of the grantor, his proper surname, address, and occupation*] in consideration of the sum of, [*here state whether the consideration is an antecedent debt or contemporaneous advance, and if so, how much thereof, and if for further advances, the extent of such further advance*] lent to me (or us) by [*here state the full or usual Christian names of the grantee, his proper surname, address, and occupation*] the receipt whereof I (or we) do hereby acknowledge, do hereby transfer and assign unto [*the grantee*] all and singular the personal chattels described at the foot hereof, which are situated [*describe the land or premises where the goods are situated, and in case of horses, cattle, or sheep, state the brand or other distinctive mark*], and all my (or our) right, title, claim, and demand to the same, to have, hold, take, and receive the said personal chattels unto [*the grantee*], subject to the provisos, terms, covenants, conditions, and agreements herein expressed or implied: Provided also, that if I shall pay to the said [*grantee*] the sum of £ on the day of 18 , and interest thereon, or on so much as may be due in respect thereof, at the rate of £ per centum per annum, payable in payments on

during this security then these presents shall become void.

[*Herein insert any other necessary condition.*]

And it is agreed that, upon payment of the moneys hereby secured, the said grantee will, at my cost and my request, execute a discharge to me (or us) of this security, and that it shall be lawful for me (or us) to retain possession of the said personal chattels until default shall be made in the expressed or implied terms, covenants, conditions, and agreements of this security. In witness whereof the said parties hereto have hereunto subscribed their names the

day of 188 .
Signed by the said [*grantor*] in the }
presence of }

Personal Chattels comprised in this Bill of Sale.

[*Here give a sufficient description of the personal chattels to be assigned.*]

SECOND SCHEDULE.

Sec. 15.

I, N. B. [*here state address and occupation*], the person whose name appears as the attesting witness to the above bill of sale (or transfer, or discharge), do hereby declare that I was present and saw [*grantor*] sign the above instrument, and I thereupon signed my name as attesting witness thereto.

Declared before me at
this day of 18 ..

The Bills of Sale Act.—1885.

THIRD SCHEDULE.

Certificate of Registration to be endorsed by Registrar on each Bill of Sale.

No. This Bill of Sale was received into the Registry Office at Sec. 20.
 this day of , 18 , at the hour of
 in the noon, and is registered as provided by the Bills of
 Sale Act, 1885. Registrar.

FOURTH SCHEDULE.

Discharge of Bill of Sale (by endorsement).

Received this day of , 18 , from the within-named Sec. 23.
 , the sum of £ , being in full (or part) satisfaction and
 discharge of the within security.

FIFTH SCHEDULE.

Transfer of Bill of Sale.

I, the within-named [grantee], in consideration of the sum of £ Sec. 21.
 [state consideration], paid to me by [here state full or usual Christian names of the
 transferee, his proper surname, address, and occupation], do hereby transfer and
 assign to him the personal goods and chattels comprised in the within-written security,
 subject to the terms, provisos, conditions, and agreements therein expressed or
 implied; and also the principal and interest money thereby secured, and all claims,
 demands, powers, rights, privileges, and authorities thereby conferred upon or vested
 in me, together with the said bill of sale. In witness whereof I have hereunto
 subscribed my name, this day of , 18 .
 Signed by the said, &c.

SIXTH SCHEDULE.

Fees Payable to the Registrar for the Performances of the several acts, matters, and things set forth in this Act.

	£	s.	d.	
Lodging notice to register bill of sale	0	1	0	Sec. 37.
For lodging a caveat	0	5	0	
For registering any bill of sale or agreement for the hire of personal chattels when the consideration thereof shall be under £20	0	5	0	
When the consideration shall not exceed £200	0	10	0	
When the consideration shall exceed £200	1	0	0	
For registering the discharge or the transmission or transfer of any bill of sale, half of the fees payable for the registration of a bill of sale.				
For every search	0	2	6	
For registering any document not hereinbefore provided for	0	5	0	

SEVENTH

The Bills of Sale Act.—1885:

SEVENTH SCHEDULE.

Fees Payable to Practitioners of Supreme Court or Licensed Land Brokers.

Sec. 38.

	£	s.	d.
For every bill of sale, in duplicate, when the consideration thereof shall not exceed £50	0	10	6
When the consideration exceeds £50	1	1	0
For every folio beyond the first ten folios	0	2	0
Or, if printed or partly printed, then beyond the first ten folios, per folio..	0	0	6
For copying or engrossing schedules (if such bill of sale exceeds ten folios), per folio	0	1	0
For every transfer, transmission, or discharge of any bill of sale, half of the charges payable for a bill of sale.			
The above charges shall include all manner of attendances, searches, and letters in connection with the documents referred to, unless an agreement in writing setting forth the extra charges agreed to be paid shall have been signed by the person to be charged.			

EIGHTH SCHEDULE.

Sec. 44.

No. of Act.	Title of Act.	Extent of Repeal.
No. 4, 1855-6.	An Act to give a preferable lien on wool from season to season, make mortgages of sheep, cattle, and horses valid without delivery to the mortgagee.	The whole.
No. 8, 1841.	An Act to provide for the registration of deeds, wills, judgments, conveyances, and other instruments.	So much of Section xxviii. and Schedules E and F as refers to the registration of any assignment or bill of sale of goods and chattels, or the taking possession thereof.
No. 12, 1843.	An Act to amend an Act for the registration of deeds, wills, judgments, and other instruments.	So much of the Section iii. as refers to the mode and procedure necessary to enter on the registry a certificate or other memorandum of satisfaction of any assignment or bill of sale of goods and chattels.
No. 2, 1865.	An Act to repeal the Registration and Deposit of Assurances Act, and for other purposes.	So much of Section 3 as refers to the registration of assignments, or bills of sale of goods and chattels, or the taking possession thereof.
No. 16, 1860.	The Insolvent Act, 1860.	So much of Sections 82 and 92 as may be applicable to any goods and chattels which shall hereafter be comprised in any bill of sale duly registered under the provisions of this Act (Bills of Sale Act, 1885), and which may be in the possession, apparent possession, order, or disposition of any insolvent, and so much as refers to any purchase or security, preferable lien, mortgage, or bill of sale duly perfected under the said Act, No. 4 of 1855-6.
No. 232, 1881. No. 135, 1879.	The Insolvency Act, 1881. The Northern Territory Registration Act.	Sections 17 and 25. The whole (except so far as such repeal may affect the appointment of a Deputy Registrar and the establishment of a Branch Registry heretofore established under the provisions of the said Act, No. 135, 1879).