

Legislative Council

56^o VICTORIÆ, 1892.

A BILL

To amend the law relating to Bills of Sale of Personal Chattels.

[MR. CREED;—6 October, 1892.]

WHEREAS it is expedient to amend the law relating to Bills of Preamble.
Sale of Personal Chattels: Be it therefore enacted by the
Queen's Most Excellent Majesty, by and with the advice and consent
of the Legislative Council and Legislative Assembly of New South
5 Wales in Parliament assembled, and by the authority of the same, as
follows:—

1. This Act may be cited as the "Bills of Sale Act of 1892," Short title.
and shall come into operation on the Commencement of Act.
one thousand eight hundred and ninety-

10 2. In this Act, unless the context otherwise indicates, the Interpretation of terms.
following terms have and include the meanings set against them
respectively, that is to say,—

15 "Bill of sale" shall include bills of sale, agreements to give bills
of sale, assignments, transfers, declarations of trust without
transfer, contracts for the letting or hiring of any personal
chattels and other assurances of personal chattels, and also
powers of attorney, authorities, or licenses to take possession
of personal chattels as security for any debt, but shall not
20 include the following documents, that is to say, assignments
for the benefit of the creditors of the persons making or
giving the same, marriage settlements, transfers or assign-
ments
c 1—

ments 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, India warrants, warehouse-keepers certificates, warrants or orders for the delivery of goods, or any other 5 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 endorsement or delivery the possessor of such document to transfer or receive goods thereby represented. 10

“Personal chattels” shall mean goods, furniture, fixtures, and other articles capable of complete transfer by delivery, and shall not include chattel interests in real estate, nor shares or interest in the stock funds or securities of any government, or in the capital or property of any incorporated or joint 15 stock company, nor choses in action, nor any stock or produce upon any farm or lands which by virtue of any covenant or agreement ought not to be removed from any farm where the same shall be at the time of the making or giving of such bill of sale. 20

And personal chattels shall be deemed to be in the “apparent possession” of the person making or giving the bill of sale so long as they still remain or be in or upon any land occupied by him, or as they shall be used and enjoyed by him in any place whatsoever, notwithstanding that formal possession 25 thereof may have been taken by or given to any other person.

Bills of sale to be filed in the office of the Registrar-General.

3. Every bill of sale of personal chattels made after the passing of this Act, either absolutely or conditionally, or subject or not subject to any trusts, and whereby the grantee or holder shall have power, either with or without notice, and either immediately 30 after the making of such bill of sale, or at any future time, to seize or take possession of any property and effects comprised in or made subject to such bill of sale, and every schedule or inventory which shall be thereto annexed or therein referred to, or a true copy thereof respectively, and of every attestation of the execution thereof 35 shall, together with an affidavit of the time of such bill of sale being made or given, and a description of the residence and occupation of the person making or giving the same, or in case the same shall be made or given by any person under or in the execution of any process, then a description of the residence and occupation of the person 40 against whom such process shall have issued, and of every attesting witness to such bill of sale, be filed in the office of the Registrar-General within thirty days after the making or giving such bill of sale, and until such filing as aforesaid such bill of sale shall as against all assignees of the estate and effects of the person whose goods or any of 45 them are comprised in such bill of sale under any laws now or hereafter to be in force relating to bankruptcy or insolvency, and as against all officers and other persons seizing any property or effects comprised in such bill of sale in the execution of any process of any Court of law or equity authorising the seizure of the goods of the person by whom or 50 of whose goods such bill of sale shall have been made, and against every person on whose behalf such process shall have been issued be null and void to all intents and purposes whatsoever, so far as regards the property in or right to the possession of any personal chattels comprised in such bill of sale, which at or after the time of such 55 bankruptcy, or of the estate of the debtor being placed under sequestration, or of executing such process (as the case may be), shall be in the possession or apparent possession of the person making such bill of

of sale, or of any person against whom the process shall have issued under or in the execution of which such bill of sale shall have been made or given, as the case may be.

4. In case two or more bills of sale are given comprising in whole or in part any of the same personal chattels, they shall have priority in the order of the date of their filing in the office of the Registrar-General as aforesaid, respectively, as regards such chattels, but no bill of sale shall be filed unless notice of the intention to file the same be lodged at the office of the Registrar-General fourteen days before the filing thereof, and upon such lodgment there shall be paid to the Registrar-General a fee of one shilling.

Bill of sale to take effect according to priority of registration.

No bill of sale to be filed until after notice of intention to file.

5. Every such notice shall be in the form in the First Schedule hereto or to the like effect, and shall contain a statement of the particulars in such form mentioned, and shall specify an address to which notices of caveats may be posted, and the Registrar-General shall cause the date at which such notice is lodged to be marked thereupon.

Form of notice.

6. The Registrar-General shall cause a book to be kept in which the names and additions of all persons making or giving any bill of sale, herein called the grantors specified in such notices, shall be entered in alphabetical order, with the dates at which such notices are lodged, and such book shall be open to the inspection of any person upon payment of a fee of one shilling, and any person may inspect and take a copy of any notice lodged as hereinbefore mentioned upon payment of a fee of sixpence.

Notices to be indexed and open to inspection.

7. No bill of sale specified in any such notice shall be filed before the expiration of fourteen days from the day of lodging such notice, or after the expiration of thirty days from such day, save as provided in section fourteen hereinafter contained, unless a fresh notice be given.

Time within which bill of sale may be filed.

8. If a caveat shall be entered as hereinafter provided against the filing of the bill of sale specified in any such notice such bill of sale shall not be filed until the caveat be removed or withdrawn, as hereinafter provided.

Caveat to stay filing.

9. Any creditor of the grantor in such notice mentioned may at any time within fourteen days from the day on which notice shall be lodged, enter a caveat against the filing of the bill of sale specified in the notice by lodging such caveat with the Registrar-General and paying a fee of one shilling, and every such caveat shall be in the form in the Second Schedule hereto or to the like effect, and shall contain the particulars therein mentioned, and shall specify a place within two miles of the General Post Office, Sydney, at which notices relating to such caveat may be served, and every notice relating to such caveat if served at such place shall be deemed to be duly served.

Creditor may enter caveat.

10. Upon the receipt of any such caveat the Registrar-General shall cause a copy thereof to be posted to the grantor mentioned in the notice at the address specified in the notice, and the grantor may summon the caveator before a Judge of the Supreme Court or the District Court holden at Sydney to show cause why his caveat should not be removed, and upon the return of such summons the Judge shall hear and determine whether the caveator is a creditor of the grantor, and any person to whom the grantor is indebted on any account whatsoever, at law or in equity, on the balance of account or otherwise, and whether the debt be due or to accrue due, secured or unsecured, shall be deemed to be a creditor within the meaning of this section: Provided however, in the case of a secured creditor, if the Judge shall be of opinion that the security held by the secured creditor is sufficient to satisfy his debt or claim he may order the removal of the caveat.

Caveat to be notified to grantor who may summon caveator.

11. If on the hearing of such summons it shall appear that the caveator is a creditor of the grantor the Judge may make an order directing that no bill of sale shall be filed in pursuance of the notice mentioned

Judge may order filing to be stayed or removal of caveat.

mentioned in the caveat until the debt for which he shall be found to be a creditor be satisfied, but if it shall not appear that the caveator is a creditor of the grantor the Judge may order that the caveat be removed, and upon service of the order upon the Registrar-General he shall remove the caveat therein mentioned.

Caveat may be withdrawn or removal ordered at any time.

12. A caveator may withdraw his caveat at any time by signing an application for the withdrawal thereof in the form in the Third Schedule hereto or to the like effect, and if after satisfaction of his debt before or after the making of any such order as hereinbefore mentioned the caveator shall refuse to withdraw his caveat or to sign an application for the withdrawal thereof, the grantor may summon the caveator before a Judge, as hereinbefore mentioned, to show cause why the caveat should not be removed, and the Judge may order the removal of such caveat, and upon the service of the order upon the Registrar-General he shall remove the caveat therein mentioned. Where an order shall have been made for the removal of a caveat, it shall be lawful for a Judge at any time within seven days thereafter, upon the application of the grantor to allow further time not to exceed seven days, to proceed with the registration of the bill of sale: Provided always that the order allowing further time as aforesaid must be filed at the time when the said bill of sale is registered.

Judge to have jurisdiction to award costs and compensation.

13. Upon the hearing of any summons under this Act the Judge may make such order as to costs as he may think fit, and any person not a creditor of the grantor entering a caveat without reasonable cause for considering himself to be a creditor, and any caveator refusing without reasonable cause to sign an application for withdrawal of his caveat after satisfaction of his debt shall be liable to pay the grantor such sum by way of compensation as the Judge upon the hearing of any such summons may deem just and may order.

Notice of intention not to apply to hire documents

14. Nothing in the preceding sections contained as to the notice of intention to give a bill of sale, or any caveat thereon, or any proceeding thereunder, shall apply to a contract for the letting or hiring of any personal chattels, anything hereinbefore contained to the contrary notwithstanding.

Filing of bill of sale to be renewed every twelve months to preserve validity conferred by filing.

15. Every bill of sale which shall hereafter be made or given otherwise than under or in execution of any process shall, at the expiration of twelve months from the filing thereof, become null and void, unless within that time an affidavit shall be filed in the office of the Registrar-General made by the person or one of the persons entitled to the money secured thereby, or owing or payable thereunder, or in the case of a corporation by its manager or other officer able to depose of his own knowledge as to the amount owing on the security thereof or payable in respect of the personal chattels comprised in such bill of sale (such affidavit to be filed within seven days from the day of swearing the same), stating the amount owing on the security thereof or payable in respect of the personal chattels comprised in such bill of sale at the date of swearing the affidavit, and at the expiration of twelve months from the filing of any such affidavit or of any subsequent affidavit such bill of sale shall in like manner become null and void unless a like affidavit is filed within such further period of twelve months showing the amount then owing on the security of such bill of sale: Provided always that in the case of a contract for the letting or hiring of any personal chattels this section shall only apply where the personal chattels comprised therein are to become the property of the hirer upon the payment of a certain sum of money: And provided always that nothing in this section contained shall apply to any bill of sale where the consideration thereof is not of a pecuniary character.

Affidavit renewing filing to be entered and to be open to inspection in office of Registrar-General.

16. Upon the filing of any such affidavit the Registrar-General shall cause an entry to be made in a book kept for that purpose of the number and date of filing such affidavit, and the amount thereby deposited

deposed to be owing, together with the names, additions, and descriptions of the persons making or giving the bill of sale, and the number of such bill of sale to which the affidavit refers, and he shall be entitled to receive one shilling and no more for filing every such 5 affidavit, and every such affidavit may be inspected by any person at all reasonable times on payment to the Registrar-General of a fee of sixpence, and such book may be likewise inspected by any person on payment of a fee of sixpence.

10 17. If such bill of sale shall be made or given subject to any defeasance or condition or declaration of trust not contained in the body thereof, such defeasance or 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 the same paper or parchment on which such bill of sale shall be written before the time when the same or a copy thereof 15 respectively shall be filed, otherwise such bill of sale shall be null and void to all intents and purposes as against the same persons, and as regards the same property and effects as if such bill of sale or a copy thereof respectively had not been filed according to the provisions of this Act.

Defeasances and conditions to be written on the bill of sale.

20 18. Every bill of sale of personal chattels (together with every schedule or inventory, if any, thereto annexed or therein referred to) which, or a copy of which, shall be filed according to this Act shall be valid, notwithstanding that the person making or giving the same, or (in case the same shall be made or given by any person under or in 25 execution of any process) the person against whom such process shall have issued, shall by the consent and permission of the true owner thereof have in his possession, order, or disposition the property and effects comprised in or made subject to such bill of sale, and shall be reputed owner thereof, or shall have taken upon himself the sale, 30 alteration, or disposition of such property and effects as owner.

Reputed ownership not to invalidate bills of sale.

19. The Registrar-General shall cause every bill of sale and every such schedule and inventory as aforesaid, and every such copy filed as aforesaid to be numbered, and shall keep a book or books in his said office, in which he shall cause to be fairly entered an alphabetical list 35 of every such bill of sale containing therein the name, addition, and description of the person making or giving the same, or (in case the same shall be made or given by any person under or in the execution of process as aforesaid then) the name, addition, and description, of the person against whom such process shall have issued, and also of the 40 person to whom or in whose favour the same shall have been given, together with the number and the dates of the execution and filing of the same, and the sum for which the same has been given, and the time or times if any when the same is thereby made payable according to the form contained in the Fourth Schedule to this Act, which said 45 book or books, and every bill of sale or copy thereof filed in the said office may be searched and viewed by all persons at all reasonable times on paying to the said Registrar-General for every search against one person the sum of one shilling and no more.

Registrar-General to keep books.

20. The Registrar-General shall be entitled to receive for filing 50 and entering every such bill of sale, or a copy thereof as aforesaid, the sum of one shilling and no more.

Fee for filing.

21. Upon the filing of any copy of a bill of sale under this Act, the Registrar-General or other proper officer in that behalf shall endorse thereon a receipt for the same, in which shall be specified the certain 55 day, hour, and time on which the same shall have been filed, and the Registrar-General or other proper officer in that behalf shall then attach his signature to the said receipt, and every such receipt so indorsed and signed shall be taken and allowed as evidence of the filing of such bill of sale, and of the time when such filing took place.

Receipt to be indorsed on copy of bill of sale.

Office copies.

22. Any person shall be entitled to have an office copy or an extract of every bill of sale, or of the copy thereof, filed as aforesaid, upon paying for the same the sum of fourpence per folio of seventy-two words.

Bills of sale to be public records.

23. Every bill of sale and every notice of intention to give a bill of sale, and every caveat under the provisions of this Act, and every other document whatever filed or registered in any Court of Record or with the Registrar General shall be, and the same are hereby declared to be public records, and no action whatever shall be maintainable against any defendant for printing or publishing any such public record as aforesaid, provided such printing or publishing is a correct or a substantially correct account or particular of such public record.

Satisfaction may be entered.

24. The Registrar-General shall enter up satisfaction upon any bill of sale or copy thereof respectively filed as aforesaid, upon the party applying to have such satisfaction entered up filing in the office of the Registrar-General an affidavit of the grantee of such bill of sale, or his attorney, to the effect that the debt or consideration for which such bill of sale was given as security has been satisfied or discharged.

Satisfactions to be indexed and open to inspection.

25. Upon entering up satisfaction as aforesaid, the Registrar-General shall cause an entry to be made in a book kept for that purpose of the number and date of the entry of such satisfaction, and every such book and particulars of such satisfactions may be inspected by any person at all reasonable times on payment to the Registrar-General of a fee of sixpence.

Repeal clause.

26. From and after the passing of this Act, the Acts or portions thereof set out in the Fifth Schedule hereto shall be repealed: Provided that (except as is herein expressly mentioned with respect to registration under this Act and renewal of registration) nothing in this Act shall affect any bill of sale executed before the passing of this Act, and as regards bills of sale so executed the Acts or portions thereof hereby repealed shall continue in force: Provided always that every bill of sale that shall have been executed prior to the passing of this Act shall become null and void to all intents and purposes as against the same persons, and as regards the same property and effects, as if such bill of sale or a copy thereof respectively had not been filed according to the provisions of this Act, unless it shall be registered under the provisions of and in manner prescribed by this Act for the renewal of a bill of sale as in section sixteen contained, within a period of six months from the date of the passing of this Act.

As to renewal of earlier bills of sale.

27. Every bill of sale executed prior to the passing of this Act shall require renewal in the same manner as bills of sale executed after the passing of this Act.

Preferable liens Act.

28. Nothing in this Act shall extend to any preferable lien upon wool or mortgage of sheep or other cattle within the protection respectively of the Acts, or any of them legalising such instruments.

FIRST SCHEDULE.

NOTICE OF INTENTION TO FILE BILL OF SALE.

5	Grantor or grantors.			Property comprised in bill of sale.		Consideration.			Grantee or grantees.		
	10 Name or names in full, and where the grantors are a partnership firm not incorporated, the usual name or style of such firm.	Business or occupation.	Place of business or residence.	Description in general terms.	Where situate.	Past debt.	Advance at time of giving bill of sale.	Future advances.	Name or names in full.	Business or occupation.	Place of business or residence.

I [or we] the abovenamed grantor [or grantors] hereby give notice that a bill of sale made by me [or us] on the day 18 of the property above described to the abovenamed grantee [or grantees] to secure the debt or advances above mentioned will be filed after the expiration of fourteen days from the date of lodging this notice, and I [or we] hereby direct that notice of any caveat which may be entered against the filing of such bill of sale may be posted addressed as follows [fill in address] :—

20 Dated this day of 18 .
 Signature of grantor [or grantors] or his [or their] attorney or agent.
 Lodged this day of 18 .
 To the Registrar-General.

SECOND SCHEDULE.

CAVEAT.

To the Registrar-General.

25 Take notice that I [or we] [fill in name or names, or if the caveators be a partnership firm not incorporated, the usual name or style of such firm, and the business, occupation, and place of business, or residence, of caveator or caveators] being a creditor [or creditors] of [fill in name, occupation, and place of business of grantor or grantors, as described in his, or their notice] in respect of a debt of £ [state the amount claimed to be due] due to me [or us] for [and the nature of the debt as "for goods sold and delivered" "on balance of account current" "money lent" "rent" &c.] hereby forbid the filing of any bill of sale in pursuance of the notice given by the said lodged on the day of 18 , and I [or we] do hereby appoint as the place at which [and [where the caveators are a partnership firm not incorporated] as the member of our firm on whom] notices and proceedings relating to this caveat may be served.

35 Dated the day of 18 .
 40 Signature of caveator [or caveators, or usual signature of the partnership firm above-mentioned] or his [or their] attorney or agent.
 Lodged the day of 18 .
 Registrar-General.

THIRD SCHEDULE.

APPLICATION TO WITHDRAW CAVEAT.

To the Registrar-General.

45 Take notice that I [or we] [fill in name or names, or if the caveators be a partnership firm not incorporated the usual name or style of such firm, and the business, occupation, and place of business or residence of caveator or caveators] hereby withdraw the caveat lodged by me [or us] on the day of against the filing of the bill of sale 50 specified in the notice of [name of grantor or grantors] of [address of grantor or grantors] lodged on the day of 18 .
 Signature of caveator [or caveators, or usual signature of the partnership firm above-mentioned] or his [or their] attorney or agent.

FOURTH

Bills of Sale.

FOURTH SCHEDULE.

Name, &c., of the person making or giving the bill of sale or of the person divested of property.	Name, &c., of the person to whom made or given.	Whether bill of sale, assignment, transfer, or what other assurance, and whether absolute or conditional, and number.	Date of execution.	Date of filing.	Sum for which made or given.	When and how payable.

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FIFTH SCHEDULE.

No. of Act.	Title of Act.	Effect of repeal.
10 Vic. No. 10..	An Act to amend the law respecting the recovery of small debts in all parts of the Colony.	Section 32.
19 Vic. No. 2...	An Act for preventing frauds upon creditors by secret bills of sale of personal chattels.	The whole.

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[6d.]

Legislative Council

56° VICTORIÆ, 1892.

A BILL

To amend the law relating to Bills of Sale of Personal Chattels.

[MR. CREED;—6 October, 1892.]

WHEREAS it is expedient to amend the law relating to Bills of Sale of Personal Chattels: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Preamble.

1. This Act may be cited as the "Bills of Sale Act of 1892," and shall come into operation on the one thousand eight hundred and ninety-

Short title.

Commencement of Act.

2. In this Act, unless the context otherwise indicates, the following terms have and include the meanings set against them respectively, that is to say,—

Interpretation of terms.

"Bill of sale" shall include bills of sale, agreements to give bills of sale, assignments, transfers, declarations of trust without transfer, contracts for the letting or hiring of any personal chattels and other assurances of personal chattels, and also powers of attorney, authorities, or licenses to take possession of personal chattels as security for any debt, but shall not include the following documents, that is to say, assignments for the benefit of the creditors of the persons making or giving the same, marriage settlements, transfers or assignments

ments 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, India warrants, warehouse-keepers certificates, 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 endorsement or delivery the possessor of such document to transfer or receive goods thereby represented. 5 10

“Personal chattels” shall mean goods, furniture, fixtures, and other articles capable of complete transfer by delivery, and shall not include chattel interests in real estate, nor shares or interest in the stock funds or securities of any government, or in the capital or property of any incorporated or joint stock company, nor choses in action, nor any stock or produce upon any farm or lands which by virtue of any covenant or agreement ought not to be removed from any farm where the same shall be at the time of the making or giving of such bill of sale. 15 20

And personal chattels shall be deemed to be in the “apparent possession” of the person making or giving the bill of sale so long as they still remain or be in or upon any land occupied by him, or as they shall be 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. 25

3. Every bill of sale of personal chattels made after the passing of this Act, either absolutely or conditionally, or subject or not subject to any trusts, and whereby the grantee or holder shall have power, either with or without notice, and either immediately after the making of such bill of sale, or at any future time, to seize or take possession of any property and effects comprised in or made subject to such bill of sale, and every schedule or inventory which shall be thereto annexed or therein referred to, or a true copy thereof respectively, and of every attestation of the execution thereof shall, together with an affidavit of the time of such bill of sale being made or given, and a description of the residence and occupation of the person making or giving the same, or in case the same shall be made or given by any person under or in the execution of any process, then a description of the residence and occupation of the person against whom such process shall have issued, and of every attesting witness to such bill of sale, be filed in the office of the Registrar-General within thirty days after the making or giving such bill of sale, and until such filing as aforesaid such bill of sale shall as against all assignees of the estate and effects of the person whose goods or any of them are comprised in such bill of sale under any laws now or hereafter to be in force relating to bankruptcy or insolvency, and as against all officers and other persons seizing any property or effects comprised in such bill of sale in the execution of any process of any Court of law or equity authorising the seizure of the goods of the person by whom or of whose goods such bill of sale shall have been made, and against every person on whose behalf such process shall have been issued be null and void to all intents and purposes whatsoever, so far as regards the property in or right to the possession of any personal chattels comprised in such bill of sale, which at or after the time of such bankruptcy, or of the estate of the debtor being placed under sequestration, or of executing such process (as the case may be), shall be in the possession or apparent possession of the person making such bill of 30 35 40 45 50 55

Bills of sale to be filed in the office of the Registrar-General.

of sale, or of any person against whom the process shall have issued under or in the execution of which such bill of sale shall have been made or given, as the case may be.

4. In case two or more bills of sale are given comprising in whole or in part any of the same personal chattels, they shall have priority in the order of the date of their filing in the office of the Registrar-General as aforesaid, respectively, as regards such chattels, but no bill of sale shall be filed unless notice of the intention to file the same be lodged at the office of the Registrar-General fourteen days before the filing thereof, and upon such lodgment there shall be paid to the Registrar-General a fee of one shilling.

Bill of sale to take effect according to priority of registration.

No bill of sale to be filed until after notice of intention to file.

5. Every such notice shall be in the form in the First Schedule hereto or to the like effect, and shall contain a statement of the particulars in such form mentioned, and shall specify an address to which notices of caveats may be posted, and the Registrar-General shall cause the date at which such notice is lodged to be marked thereupon.

Form of notice.

6. The Registrar-General shall cause a book to be kept in which the names and additions of all persons making or giving any bill of sale, herein called the grantors specified in such notices, shall be entered in alphabetical order, with the dates at which such notices are lodged, and such book shall be open to the inspection of any person upon payment of a fee of one shilling, and any person may inspect and take a copy of any notice lodged as hereinbefore mentioned upon payment of a fee of sixpence.

Notices to be indexed and open to inspection.

7. No bill of sale specified in any such notice shall be filed before the expiration of fourteen days from the day of lodging such notice, or after the expiration of thirty days from such day, save as provided in section fourteen hereinafter contained, unless a fresh notice be given.

Time within which bill of sale may be filed.

8. If a caveat shall be entered as hereinafter provided against the filing of the bill of sale specified in any such notice such bill of sale shall not be filed until the caveat be removed or withdrawn, as hereinafter provided.

Caveat to stay filing.

9. Any creditor of the grantor in such notice mentioned may at any time within fourteen days from the day on which notice shall be lodged, enter a caveat against the filing of the bill of sale specified in the notice by lodging such caveat with the Registrar-General and paying a fee of one shilling, and every such caveat shall be in the form in the Second Schedule hereto or to the like effect, and shall contain the particulars therein mentioned, and shall specify a place within two miles of the General Post Office, Sydney, at which notices relating to such caveat may be served, and every notice relating to such caveat if served at such place shall be deemed to be duly served.

Creditor may enter caveat.

10. Upon the receipt of any such caveat the Registrar-General shall cause a copy thereof to be posted to the grantor mentioned in the notice at the address specified in the notice, and the grantor may summon the caveator before a Judge of the Supreme Court or the District Court holden at Sydney to show cause why his caveat should not be removed, and upon the return of such summons the Judge shall hear and determine whether the caveator is a creditor of the grantor, and any person to whom the grantor is indebted on any account whatsoever, at law or in equity, on the balance of account or otherwise, and whether the debt be due or to accrue due, secured or unsecured, shall be deemed to be a creditor within the meaning of this section: Provided however, in the case of a secured creditor, if the Judge shall be of opinion that the security held by the secured creditor is sufficient to satisfy his debt or claim he may order the removal of the caveat.

Caveat to be notified to grantor who may summon caveator.

11. If on the hearing of such summons it shall appear that the caveator is a creditor of the grantor the Judge may make an order directing that no bill of sale shall be filed in pursuance of the notice mentioned

Judge may order filing to be stayed or removal of caveat.

mentioned in the caveat until the debt for which he shall be found to be a creditor be satisfied, but if it shall not appear that the caveator is a creditor of the grantor the Judge may order that the caveat be removed, and upon service of the order upon the Registrar-General he shall remove the caveat therein mentioned.

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Caveat may be withdrawn or removal ordered at any time.

12. A caveator may withdraw his caveat at any time by signing an application for the withdrawal thereof in the form in the Third Schedule hereto or to the like effect, and if after satisfaction of his debt before or after the making of any such order as hereinbefore mentioned the caveator shall refuse to withdraw his caveat or to sign 10 an application for the withdrawal thereof, the grantor may summon the caveator before a Judge, as hereinbefore mentioned, to show cause why the caveat should not be removed, and the Judge may order the removal of such caveat, and upon the service of the order upon the Registrar-General he shall remove the caveat therein mentioned. 15 Where an order shall have been made for the removal of a caveat, it shall be lawful for a Judge at any time within seven days thereafter, upon the application of the grantor to allow further time not to exceed seven days, to proceed with the registration of the bill of sale: Provided always that the order allowing further time as aforesaid must be 20 filed at the time when the said bill of sale is registered.

Judge to have jurisdiction to award costs and compensation.

13. Upon the hearing of any summons under this Act the Judge may make such order as to costs as he may think fit, and any person not a creditor of the grantor entering a caveat without reasonable cause for considering himself to be a creditor, and any caveator refusing 25 without reasonable cause to sign an application for withdrawal of his caveat after satisfaction of his debt shall be liable to pay the grantor such sum by way of compensation as the Judge upon the hearing of any such summons may deem just and may order.

Notice of intention not to apply to hire documents

14. Nothing in the preceding sections contained as to the notice 30 of intention to give a bill of sale, or any caveat thereon, or any proceeding thereunder, shall apply to a contract for the letting or hiring of any personal chattels, anything hereinbefore contained to the contrary notwithstanding.

Filing of bill of sale to be renewed every twelve months to preserve validity conferred by filing.

15. Every bill of sale which shall hereafter be made or given 35 otherwise than under or in execution of any process shall, at the expiration of twelve months from the filing thereof, become null and void, unless within that time an affidavit shall be filed in the office of the Registrar-General made by the person or one of the persons entitled to the money secured thereby, or owing or payable thereunder, or in 40 the case of a corporation by its manager or other officer able to depose of his own knowledge as to the amount owing on the security thereof or payable in respect of the personal chattels comprised in such bill of sale (such affidavit to be filed within seven days from the day of swearing the same), stating the amount owing on the security thereof 45 or payable in respect of the personal chattels comprised in such bill of sale at the date of swearing the affidavit, and at the expiration of twelve months from the filing of any such affidavit or of any subsequent affidavit such bill of sale shall in like manner become null and void unless a like affidavit is filed within such further period of twelve 50 months showing the amount then owing on the security of such bill of sale: Provided always that in the case of a contract for the letting or hiring of any personal chattels this section shall only apply where the personal chattels comprised therein are to become the property of the hirer upon the payment of a certain sum of money: And provided 55 always that nothing in this section contained shall apply to any bill of sale where the consideration thereof is not of a pecuniary character.

Affidavit renewing filing to be entered and to be open to inspection in office of Registrar-General.

16. Upon the filing of any such affidavit the Registrar-General shall cause an entry to be made in a book kept for that purpose of the number and date of filing such affidavit, and the amount thereby 60 deposited

deposed to be owing, together with the names, additions, and descriptions of the persons making or giving the bill of sale, and the number of such bill of sale to which the affidavit refers, and he shall be entitled to receive one shilling and no more for filing every such affidavit, and every such affidavit may be inspected by any person at all reasonable times on payment to the Registrar-General of a fee of sixpence, and such book may be likewise inspected by any person on payment of a fee of sixpence.

17. If such bill of sale shall be made or given subject to any defeasance or condition or declaration of trust not contained in the body thereof, such defeasance or 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 the same paper or parchment on which such bill of sale shall be written before the time when the same or a copy thereof respectively shall be filed, otherwise such bill of sale shall be null and void to all intents and purposes as against the same persons, and as regards the same property and effects as if such bill of sale or a copy thereof respectively had not been filed according to the provisions of this Act.

Defeasances and conditions to be written on the bill of sale.

18. Every bill of sale of personal chattels (together with every schedule or inventory, if any, thereto annexed or therein referred to) which, or a copy of which, shall be filed according to this Act shall be valid, notwithstanding that the person making or giving the same, or (in case the same shall be made or given by any person under or in execution of any process) the person against whom such process shall have issued, shall by the consent and permission of the true owner thereof have in his possession, order, or disposition the property and effects comprised in or made subject to such bill of sale, and shall be reputed owner thereof, or shall have taken upon himself the sale, alteration, or disposition of such property and effects as owner.

Reputed ownership not to invalidate bills of sale.

19. The Registrar-General shall cause every bill of sale and every such schedule and inventory as aforesaid, and every such copy filed as aforesaid to be numbered, and shall keep a book or books in his said office, in which he shall cause to be fairly entered an alphabetical list of every such bill of sale containing therein the name, addition, and description of the person making or giving the same, or (in case the same shall be made or given by any person under or in the execution of process as aforesaid then) the name, addition, and description, of the person against whom such process shall have issued, and also of the person to whom or in whose favour the same shall have been given, together with the number and the dates of the execution and filing of the same, and the sum for which the same has been given, and the time or times if any when the same is thereby made payable according to the form contained in the Fourth Schedule to this Act, which said book or books, and every bill of sale or copy thereof filed in the said office may be searched and viewed by all persons at all reasonable times on paying to the said Registrar-General for every search against one person the sum of one shilling and no more.

Registrar-General to keep books.

20. The Registrar-General shall be entitled to receive for filing and entering every such bill of sale, or a copy thereof as aforesaid, the sum of one shilling and no more.

Fee for filing.

21. Upon the filing of any copy of a bill of sale under this Act, the Registrar-General or other proper officer in that behalf shall endorse thereon a receipt for the same, in which shall be specified the certain day, hour, and time on which the same shall have been filed, and the Registrar-General or other proper officer in that behalf shall then attach his signature to the said receipt, and every such receipt so indorsed and signed shall be taken and allowed as evidence of the filing of such bill of sale, and of the time when such filing took place.

Receipt to be indorsed on copy of bill of sale.

Office copies.

22. Any person shall be entitled to have an office copy or an extract of every bill of sale, or of the copy thereof, filed as aforesaid, upon paying for the same the sum of fourpence per folio of seventy-two words.

Bills of sale to be public records.

23. Every bill of sale and every notice of intention to give a bill of sale, and every caveat under the provisions of this Act, and every other document whatever filed or registered in any Court of Record or with the Registrar General shall be, and the same are hereby declared to be public records, and no action whatever shall be maintainable against any defendant for printing or publishing any such public record as aforesaid, provided such printing or publishing is a correct or a substantially correct account or particular of such public record.

Satisfactions may be entered.

24. The Registrar-General shall enter up satisfaction upon any bill of sale or copy thereof respectively filed as aforesaid, upon the party applying to have such satisfaction entered up filing in the office of the Registrar-General an affidavit of the grantee of such bill of sale, or his attorney, to the effect that the debt or consideration for which such bill of sale was given as security has been satisfied or discharged.

Satisfactions to be indexed and open to inspection.

25. Upon entering up satisfaction as aforesaid, the Registrar-General shall cause an entry to be made in a book kept for that purpose of the number and date of the entry of such satisfaction, and every such book and particulars of such satisfactions may be inspected by any person at all reasonable times on payment to the Registrar-General of a fee of sixpence.

Repeal clause.

26. From and after the passing of this Act, the Acts or portions thereof set out in the Fifth Schedule hereto shall be repealed: Provided that (except as is herein expressly mentioned with respect to registration under this Act and renewal of registration) nothing in this Act shall affect any bill of sale executed before the passing of this Act, and as regards bills of sale so executed the Acts or portions thereof hereby repealed shall continue in force: Provided always that every bill of sale that shall have been executed prior to the passing of this Act shall become null and void to all intents and purposes against the same persons, and as regards the same property and effects, as if such bill of sale or a copy thereof respectively had not been filed according to the provisions of this Act, unless it shall be registered under the provisions of and in manner prescribed by this Act for the renewal of a bill of sale as in section sixteen contained, within a period of six months from the date of the passing of this Act.

As to renewal of earlier bills of sale.

27. Every bill of sale executed prior to the passing of this Act shall require renewal in the same manner as bills of sale executed after the passing of this Act.

Preferable liens Act.

28. Nothing in this Act shall extend to any preferable lien upon wool or mortgage of sheep or other cattle within the protection respectively of the Acts, or any of them legalising such instruments.

FIRST SCHEDULE.

NOTICE OF INTENTION TO FILE BILL OF SALE.

5	Grantor or grantors.			Property comprised in bill of sale.		Consideration.			Grantee or grantees.		
	Name or names in full, and where the grantors are a partnership firm not incorporated, the usual name or style of such firm.	Business or occupation.	Place of business or residence.	Description in general terms.	Where situate.	Past debt.	Advance at time of giving bill of sale.	Future advances.	Name or names in full.	Business or occupation.	Place of business or residence.
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I [or we] the abovenamed grantor [or grantors] hereby give notice that a bill of sale made by me [or us] on the day 18 of the property above described to the abovenamed grantee [or grantees] to secure the debt or advances above mentioned will be filed after the expiration of fourteen days from the date of lodging this notice, and I [or we] hereby direct that notice of any caveat which may be entered against the filing of such bill of sale may be posted addressed as follows [fill in address] :—

20 Dated this day of 18 .
 Signature of grantor [or grantors] or his [or their] attorney or agent.
 Lodged this day of 18 .
 To the Registrar-General.

SECOND SCHEDULE.

CAVEAT.

To the Registrar-General.

25 Take notice that I [or we] [fill in name or names, or if the caveators be a partnership firm not incorporated, the usual name or style of such firm, and the business, occupation, and place of business, or residence, of caveator or caveators] being a creditor [or creditors] of [fill in name, occupation, and place of business of grantor or grantors, as described in his, or their notice] in respect of a debt of £ [state the amount claimed to be due] due to me [or us] for [and the nature of the debt as "for goods sold and delivered" "on balance of account current" "money lent" "rent" &c.] hereby forbid the filing of any bill of sale in pursuance of the notice given by the said lodged on the day of 18 , and I [or we] do hereby appoint as the place at which [and [where the caveators are a partnership firm not incorporated] as the member of our firm on whom] notices and proceedings relating to this caveat may be served.

40 Dated the day of 18 .
 Signature of caveator [or caveators, or usual signature of the partnership firm above-mentioned] or his [or their] attorney or agent.
 Lodged the day of 18 .
 Registrar-General.

THIRD SCHEDULE.

APPLICATION TO WITHDRAW CAVEAT.

To the Registrar-General.

45 Take notice that I [or we] [fill in name or names, or if the caveators be a partnership firm not incorporated the usual name or style of such firm, and the business, occupation, and place of business or residence of caveator or caveators] hereby withdraw the caveat lodged by me [or us] on the day of against the filing of the bill of sale specified in the notice of [name of grantor or grantors] of [address of grantor or grantors] lodged on the day of 18 .
 Signature of caveator [or caveators, or usual signature of the partnership firm above-mentioned] or his [or their] attorney or agent.

FOURTH

FOURTH SCHEDULE.

Name, &c., of the person making or giving the bill of sale or of the person divested of property.	Name, &c., of the person to whom made or given.	Whether bill of sale, assignment, transfer, or what other assurance, and whether absolute or conditional, and number.	Date of execution.	Date of filing.	Sum for which made or given.	When and how payable.

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FIFTH SCHEDULE.

No. of Act.	Title of Act.	Effect of repeal.
10 Vic. No. 10..	An Act to amend the law respecting the recovery of small debts in all parts of the Colony.	Section 32.
19 Vic. No. 2...	An Act for preventing frauds upon creditors by secret bills of sale of personal chattels.	The whole.

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