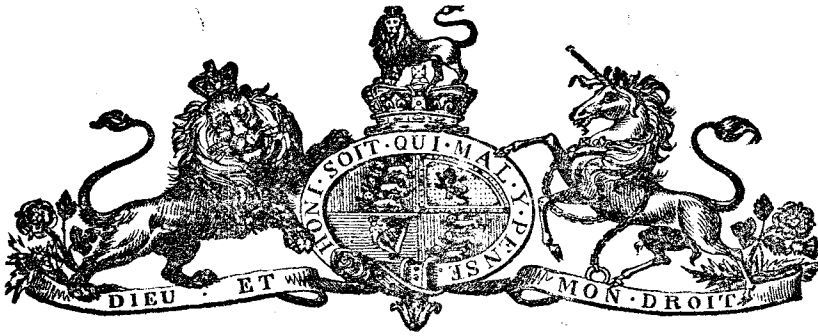


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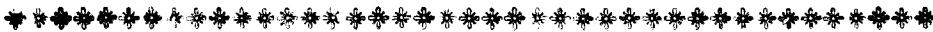


1900.

ANNO SEXAGESIMO-QUARTO

VICTORIÆ REGINÆ,

No. 70.



AN ACT to consolidate and amend the Law A.D. 1900.
relating to Bills of Sale.

[31 December, 1900.]

BE it enacted by His Excellency the Governor of *Tasmania*,
by and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows :—

1 This Act may for all purposes be cited as “The Bills of Sale Act, Short title.
1900.”

2 This Act shall come into operation and take effect on the First Date of Act.
day of *January*, One thousand nine hundred and one, which day is in
this Act referred to as the commencement of this Act.

3 From and after the commencement of this Act, “The Bills of Repeal.
Sale Act, 1896,” shall be repealed : Provided, that (except as is in 60 Vict. No. 52.
Section Five of this Act expressly mentioned with respect to construction,
and except as is in this Act expressly mentioned with respect to
renewal of registration), nothing in this Act shall affect any Bill of
Sale executed before the commencement of this Act.

4 In construing this Act, the following words and expressions shall Interpretation.
have the meanings hereby assigned to them, unless there shall be
something in the subject or context repugnant to or inconsistent with
such construction ; that is to say :—

“Bill of Sale” shall include bills of sale, assignments, transfers,
declarations of trust without transfer, 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 ; but shall not include the following docu-
ments ; that is to say :—Assignments for the benefit of the
creditors of the person making or giving the same, marriage

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settlements, transfers or assignments of any ship or vessel or any share thereof, transfers of personal chattels 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, 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 by delivery) the possessor of such document to transfer or receive goods thereby represented :

“ Personal chattels ” shall mean goods, stock-in-trade, furniture, and other articles capable of complete transfer by delivery, including stock of every description and their produce and progeny, and also wool growing on sheep whenever assigned or charged separately from the sheep, and also, when separately assigned or charged, fixtures, but shall not include chattel interests in real estate, nor fixtures 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 shares or interests in the stock funds or securities of any Government, or of any local or corporate body, nor shares or interests in the capital or property of any company or other corporate body, nor debentures or interest coupons issued by any Government or by any local or corporate body, nor choses in action, nor any stock or produce upon any farm or lands which by virtue of any covenant or agreement between the landlord and the tenant of such farm or lands ought not to be removed from any farm or lands where the same are at the time of making or giving of such Bill of Sale :

“ Crops ” shall include wheat, barley, oats, maize, and grass, whether for hay or for grain, and all cereal and root crops and fruit :

“ Stock ” shall include any sheep, cattle, horses, mules, asses, pigs, and poultry :

“ Apparent possession. ”—Personal chattels shall be deemed to be in the apparent possession of the person making or giving a Bill of Sale so long as they shall remain or be in, or upon, or about, or used in connection with any house, mill, warehouse, building, works, yard, land, or other premises occupied by him, or 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 :

“ Registrar ” shall mean the Registrar for the time being of the Supreme Court of *Tasmania* :

“ Person ” shall include any Company or Corporation :

“ Court ” shall mean the Supreme Court of *Tasmania*, or any of the Judges thereof sitting in Chambers, or the Commissioner (if any) in Bankruptcy at *Launceston* :

“ Registration ” shall mean the filing in the Office of the Registrar of a Bill of Sale or of a true copy thereof, together with the affidavit required to be filed therewith.

Bill of Sale void
unless registered.

5 Every Bill of Sale of personal chattels made after the commencement of this Act, whether absolute or conditional, and whether subject or not to any trusts, and whereby the grantee or holder thereof shall have power either with or without notice, and either immediately after

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the making of such Bill of Sale or at any future time, to seize or take possession of the personal chattels comprised in or made subject to such Bill of Sale, shall be registered under this Act in the Office of the Registrar within Twenty-one days after the making or giving of such Bill of Sale, and within Forty-two days after the lodging in the Office of the Registrar of the notice hereinafter mentioned of the intention to make or give such Bill of Sale, or within such further time as shall be allowed as hereinafter mentioned; otherwise such Bill of Sale shall be null and void to all intents and purposes whatsoever, so far as respects the personal chattels comprised in such Bill of Sale.

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Provided that the provisions of this Section shall not apply to a Bill of Sale of personal chattels which shall be absolutely and *bonâ fide* taken out of the possession and out of the apparent possession of the person making or giving such Bill of Sale before the expiration of Twenty-one days after the making or giving of such Bill of Sale, or to a transfer or assignment of a Bill of Sale.

6 A Bill of Sale shall be registered under this Act by filing in the Office of the Registrar such Bill of Sale, with every schedule or inventory which shall be thereto annexed or therein referred to, or a true copy of such Bill of Sale, and of every such schedule or inventory, and of every attestation of the execution of such Bill of Sale, together with an affidavit of the time of such Bill of Sale being made or given, and a description of the place of business or residence, and of the business or occupation of the person making or giving such Bill of Sale, and of every attesting witness to such Bill of Sale.

How Bill of Sale to be registered.

7 If any 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 deemed and taken to be 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 registration thereof, and shall, if a copy of such Bill of Sale shall be filed as aforesaid, be truly set forth in such copy as part thereof; otherwise the registration of such Bill of Sale shall be null and void.

When Bill of Sale made subject to defeasance, &c., not contained therein.

Provided that in case the Bill of Sale is given by way of collateral or concurrent security with any other mortgage or security over property of any description, the provisions of this section shall be deemed to have been complied with if such other mortgage or security is recited or referred to in the said Bill of Sale as a collateral or concurrent security therewith, and that notwithstanding the amount secured by the said other mortgage or security, or the time for redemption therein mentioned, or any one or more of the terms, conditions and provisions or other matters therein contained may be different from those respectively secured by, mentioned and contained in the said Bill of Sale. The recital of or reference to the said other mortgage or security shall contain at least the nature of the instrument, date, parties, brief description of the property, the amount of principal and interest secured, and times of payment thereof.

Where Bill of Sale collateral to another mortgage.

8 Where a subsequent Bill of Sale is executed within or on the expiration of Twenty-one days after the execution of a prior unregistered Bill of Sale, and comprises all or any part of the personal chattels comprised in such prior Bill of Sale, then, if such subsequent Bill of Sale is given as a security for the same debt as is secured by the prior Bill of Sale, or for any part of such debt, it shall, to the extent to which it is a security for the same debt or part thereof, and so far as respects the personal chattels or part thereof comprised in the prior Bill of Sale, be absolutely void, unless it is proved to the satis-

Avoidance of duplicate Bills of Sale.

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faction of the Court having cognizance of the case that the subsequent Bill of Sale was *bonâ fide* given for the purpose of correcting some material error in the prior Bill of Sale, and not for the purpose of evading this Act.

No Bill of Sale to be registered until a notice of intention to give same be lodged.

9 No Bill of Sale shall be registered under this Act unless notice as hereinafter mentioned of the intention of the maker or giver of such Bill of Sale to make or give such Bill of Sale has been lodged in the Office of the Registrar not less than Fifteen days before the registration of such Bill of Sale, and unless no caveat has been entered as hereinafter provided against the registration of such Bill of Sale, or every caveat which may have been so entered shall have been removed or withdrawn as hereinafter provided.

How notice to be lodged. Schedule (1.).

10 Every notice to be lodged in the Office of the Registrar as aforesaid of the intention to make or give a Bill of Sale, shall be in the form set forth in the Schedule (1.) to this Act annexed, or to the like effect, and shall contain a statement of the particulars in such form mentioned, and shall specify an address to which copies of caveats may be posted.

Creditor or person claiming ownership may caveat. Schedule (2.).

11 Any creditor of the person named in such notice as intending to make or give a Bill of Sale whose debt shall amount to not less than Two Pounds, or any number of creditors of such person whose joint debts shall amount to not less than Five Pounds, or any person claiming ownership or other interest in the personal chattels intended to be assigned may, at any time within Fourteen days from the day on which such notice shall be lodged in the Office of the Registrar, enter a caveat against the registration of the Bill of Sale specified in such notice by lodging such caveat with the Registrar.

Every such caveat shall be in the form set forth in the Schedule (2.) to this Act annexed, or to the like effect, and shall be in duplicate, and shall contain the particulars therein mentioned, and shall specify an address in *Tasmania* 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.

Caveat to be notified to grantor, who may summon the caveator.

12 Upon receipt of any such caveat the Registrar shall cause a copy thereof to be posted to the person named in such notice as intending to make or give a Bill of Sale at the address specified in such notice; and such person, or the intended grantee of the Bill of Sale, may summon the caveator before the Court to show cause why his caveat should not be removed, and upon the return of such summons the Court shall hear and determine whether the caveator is a creditor of such person, or is entitled to the ownership of, or any interest in the personal chattels intended to be assigned.

And any person to whom the person named in such notice as intending to make or give a Bill of Sale 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 Court shall be of opinion that the security held by the secured creditor is sufficient to satisfy his debt or claim, the Court may order the removal of the caveat.

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

13 On hearing of such summons the Court may make an Order directing that no Bill of Sale shall be registered in pursuance of such notice until such terms as may be imposed by the Court in its Order are complied with, or may order registration not to be made or to be

Bills of Sale.

made on terms, but if it shall not appear that the caveator is such a creditor or owner or person having such interest as aforesaid, the Court may order that the caveat be removed, and upon service of the Order upon the Registrar he shall remove the caveat therein mentioned.

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14 A caveator may withdraw his caveat at any time by signing an application for the withdrawal thereof in the form set forth in the Schedule (3.) to this Act annexed, or to the like effect; and if, after satisfaction of his debt or claim as aforesaid, and of his reasonable costs of entering and withdrawing his caveat 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 person named in such notice as intending to make or give a Bill of Sale may cause the caveator to be summoned before the Court to show cause why the caveat should not be removed, and the Court may order the removal of such caveat, and upon the service of the Order upon the Registrar he shall remove the caveat therein mentioned.

Caveat may be withdrawn or removal ordered. Schedule (3.).

15 Where an Order shall have been made for the removal of a caveat, it shall be lawful for the Court when making the Order, or at any time within Seven days thereafter, upon the application of the person named in such notice as intending to make or give a Bill of Sale, to allow such further time as the Court may think fit to proceed with the registration of the Bill of Sale; and a Bill of Sale registered within the time allowed by any such Order shall be deemed to be duly registered under this Act.

Court may extend the time for filing when caveat lodged.

Provided always, that the Order allowing further time as aforesaid must be filed at the time when the said Bill of Sale is registered.

16 Upon the hearing of any summons under this Act the Court may make such Order as to costs as it may think fit; and any person claiming to be a creditor of the person named in such notice as intending to make or give a Bill of Sale, or claiming ownership or interest as aforesaid, who shall enter a caveat without reasonable cause for considering himself to be a creditor, or to have such claim or interest as aforesaid, and any caveator refusing without reasonable cause to sign an application for withdrawal of his caveat after satisfaction of his debt, or settlement of his claim or interest shall be liable to pay the person named in such notice as intending to make or give a Bill of Sale such sum by way of compensation as the Court upon the hearing of any such summons may deem just and may order.

Court to have jurisdiction to award costs and compensation.

17 All the powers conferred upon the Court by Sections Twelve, Thirteen, Fourteen, Fifteen, and Sixteen of this Act may be exercised by the Judge, Commissioner, or Chairman of any Court held under "The Local Courts Act, 1896," in which an action could be brought by any person or persons lodging any such caveat as aforesaid, or any one or more of such persons, for the recovery of the debt or debts, or any one of the debts, or of the trial of the claim, in respect of which such caveat shall have been lodged.

Commissioners, &c., under 60 Vict. No. 48 may exercise certain powers of Court.

18 The registration of a Bill of Sale made or given by way of security for the payment of money, whether made or given before or after the commencement of this Act, shall, during the subsistence of such security, be renewed in manner hereinafter mentioned once at least every Two years commencing from the date of such registration; and if a period of Two years elapses from the registration or renewed

Renewal of registration of Bill of Sale.

Bills of Sale.

- A.D. 1900. registration of a Bill of Sale without a renewal or further renewal (as the case may be), the registration shall become void, and such Bill of Sale shall cease to be of any effect whatsoever. Renewal of registration shall not be necessary in the case of a Bill of Sale made or given before the commencement of this Act, except where such renewal is required by this Act.
- Mode of renewal. **19** The registration of a Bill of Sale shall be renewed by some person filing with the Registrar an affidavit stating the date of such Bill of Sale, and the names, places of business or residence, and the business or occupation of the respective parties thereto, as stated therein, and also the date of the registration of such Bill of Sale, and that such Bill of Sale is still a subsisting security, and for what amount.
- Form of affidavit. Schedule (4.). **20** Any affidavit renewing the registration of a Bill of Sale may be in the form set forth in the Schedule (4.) to this Act annexed.
- Affidavit may be sworn before Commissioner, &c. **21** Any affidavit required by this Act may be sworn before a Commissioner of the Supreme Court of *Tasmania* or a Justice of the Peace.
- Property not deemed in possession of grantor upon bankruptcy. **22** Personal chattels comprised in or subject to a Bill of Sale which has been and continues to be duly registered under this Act shall not, in the event of the bankruptcy or liquidation by arrangement of the affairs of the maker or giver of such Bill of Sale, be deemed to be in the possession, order, or disposition of the maker or giver of such Bill of Sale.
- Notice Book to be kept. **23** The Registrar shall keep in his Office a book (in this Act called the "Notice Book"), and shall, upon the lodging of any notice under this Act of the intention of any person to make or give any Bill of Sale, make an entry in such Notice Book of the name, place of business or residence, and business or occupation of the person intending to make or give such Bill of Sale as specified in such notice, and also the date when such notice was lodged; and shall number every such entry consecutively according to the time of the lodging of the notice to which such entry relates, and shall mark with a corresponding number and date the notice referred to in such entry.
- Register to be kept. Schedule (5.). **24** The Registrar shall also keep in his Office a book (in this Act called the "Register"), and shall, upon the filing of any Bill of Sale or a copy thereof under this Act, make an entry in such Register in the form set forth in the Schedule (5.) to this Act annexed of the name, place of business or residence, and the business or occupation of the person by whom such Bill of Sale was made or given, and the name of the person or persons to whom or in whose favour the same was made or given, and the other particulars shown in the said Schedule; and shall number every such entry consecutively according to the time of the filing of the Bill of Sale or copy of the Bill of Sale to which such entry relates, and shall mark with a corresponding number the filed original or copy of such Bill of Sale.
- Upon the filing of any affidavit for the renewal of the registration of a Bill of Sale the like entry shall be made in the Register, with the addition of the date and number of the original registration of the same Bill of Sale, and the said affidavit and also the Bill of Sale or copy Bill of Sale originally filed shall be thereupon marked with the number assigned to the entry of such renewal of registration.
- No person shall incur any liability as for defamation by publishing a correct copy of or an extract from or abstract of the Register.

Bills of Sale.

25 The Registrar shall also keep an index of the names of persons intending to make or give a Bill of Sale with reference to the entries in the Notice Book, and shall also keep an index of the names of the persons by whom Bills of Sale shall have been made or given with reference to the entries in the Register of the Bills of Sale made or given by each such person.

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Index of grantors and intending grantors to be kept.

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

26 Upon the filing of a Bill of Sale or a true copy thereof under this Act, the Registrar or other proper Officer shall endorse on the original Bill of Sale or a true copy thereof, if presented to him for the purpose, a memorandum in which shall be specified the day, hour, and time when the said Bill of Sale or a copy thereof was filed, and the Registrar or other proper Officer shall then attach his signature to the said memorandum; and every such memorandum so endorsed and signed shall be taken and allowed as evidence of the registration of such Bill of Sale, and of the time when such registration took place; and if any person shall object thereto the onus of proof shall rest upon the person so objecting.

Receipt to be endorsed on copy of Bill of Sale.

27 Any person shall be entitled to have an office copy of or extract from any notice, Bill of Sale, copy Bill of Sale, or affidavit lodged or filed in the Office of the Registrar under the provisions of this Act upon paying for the same the sum of Sixpence per folio of seventy-two words

Office copies.

28 Any person shall be entitled at all reasonable times to search the Notice Book and the Register, and every notice, Bill of Sale, copy Bill of Sale, and affidavit lodged or filed in the Office of the Registrar, on paying to the Registrar the fee hereinafter mentioned.

Search.

29 Upon the satisfaction of any registered Bill of Sale there shall be filed with the Registrar a Certificate of Satisfaction, in the form set forth in the Schedule (6.) to this Act annexed, signed by the person entitled to discharge such Bill of Sale, and the Registrar shall thereupon enter a memorandum of satisfaction in the Register, and upon the filed original or copy of the Bill of Sale which has been so satisfied; and it shall be lawful for the Court to order a memorandum of satisfaction to be entered in the Register and upon the filed original or copy in respect of any registered Bill of Sale if it shall appear to the Court that the debt (if any) for which such Bill of Sale was made or given as security has been satisfied or discharged.

Satisfaction to be registered. Schedule (6.).

30 Upon the full or partial Satisfaction of any Bill of Sale made before or after the commencement of this Act (such partial Satisfaction being equal to not less than one-fourth of the total principal moneys for the time being remaining secured by such Bill of Sale) there shall be filed with the Registrar, within Fourteen days from the date thereof, a Certificate of Satisfaction, in the form in the Schedule (6.) hereto, signed by the then grantee or holder of such Bill of Sale, and the Registrar shall thereupon cause a Memorandum of such full or partial Satisfaction, as the case may be, to be written upon such Bill of Sale or a copy thereof; and if at any time after any such partial Satisfaction as aforesaid any sum be again lent on the security of any Bill of Sale, there shall be filed with the Registrar, within Fourteen days of such reloan a Certificate of Reloan in the form in Schedule (7.) hereto signed

Satisfaction, whole or partial, or reloan to be registered.

Schedule (6.).

Schedule (7.).

Bills of Sale.

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by the then grantee or giver of such Bill of Sale, and the Registrar shall thereupon cause a Memorandum of such sum so again lent to be written upon such Bill of Sale or a copy thereof; and in the event of the Registrar refusing or neglecting to cause any such Memorandum to be written as aforesaid, it shall be lawful for a Judge in Chambers to order a Memorandum of such full or partial Satisfaction or of such sum so again lent, as the case may be, to be written upon any Bill of Sale or copy thereof respectively as aforesaid, if it shall appear to the said Judge that the whole or not less than such proportion as aforesaid of the debt (if any) for which such Bill of Sale is given as security shall have been satisfied or discharged, or that such sum has been so again lent as aforesaid.

Creditor may apply to Judge to cause Satisfaction to be registered.

31 If any creditor or creditors other than the grantee or any person or persons claiming through him of the grantor of any Bill of Sale made before or after the passing of this Act shall have reason to suspect that such Certificate of Satisfaction or Reloan, as the case may be, as in the preceding Section is mentioned, has not been filed as therein directed, such creditor or creditors may apply, by summons or otherwise, in a summary manner, to a Judge of the Supreme Court to determine such question, and such Judge may examine the parties to such Bill of Sale or other witnesses upon oath, and may make such order with respect to the question in dispute, and as to the costs of and consequent on the application, as he thinks fit, or may direct such application to stand over from time to time, and any enquiry touching the question in dispute to be made in such manner as he shall think fit; and the decision of such Judge shall be final.

Rectification of register.

32 Any Judge of the Supreme Court of *Tasmania* on being satisfied that the omission to effect the Registration of a Bill of Sale or to file an affidavit renewing the registration of a Bill of Sale within the time prescribed by this Act, or the omission or misstatement of the name or the place of business or residence, or the business or occupation of any person was accidental or due to inadvertence, may, in his discretion, order such omission or misstatement to be rectified by the insertion in the Register of the true name, or the true place of business or residence, or the true business or occupation, or by extending the time for the registration of such Bill of Sale, or for filing an affidavit for renewing the registration of such Bill of Sale on such terms and conditions (if any) as to security, notice by advertisement or otherwise, or as to any other matter, as he thinks fit to direct.

Court may decide construction of Bill of Sale.

Appeal.

Rules of Court.

33 The Court may, on the application of any party to any Bill of Sale, decide any question of law arising between the parties thereto or any of them with regard to the construction of the Bill of Sale or any provision thereof, or the rights thereunder of any party thereto. All Orders made by a Judge shall be subject to review by the Full Court upon appeal by any person affected thereby. Rules shall be made by the Judges of the Supreme Court, and published in the *Gazette*, for defining the practice to be followed in making such applications, and until rules are made and published the practice relating to summary applications in Chambers in Common Law matters shall be followed.

Bills of Sale of Stock.

Stock to be described, &c.

34 In any Bill of Sale comprising stock, the stock therein comprised shall be described or referred to therein by some brand or brands, or other mark or marks on such stock, or shall be otherwise described or referred to by sex, age, name of breed, colour, or otherwise, so as to be

Bills of Sale.

reasonably capable of identification, and the land or premises on which such stock are shall be described or mentioned in such Bill of Sale; otherwise the same shall be void so far as regards such or so much of such stock as may not be so described or referred to, or be otherwise reasonably capable of identification: Provided that in any Bill of Sale over stock on any station or farm such stock shall be sufficiently identified by reference to the places where the same are usually depasturing.

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

Bill of Sale of stock to include progeny.

Bill of Sale over Wool.

36 A Bill of Sale, by way of security, may be granted over the wool of the then next ensuing clip to be shorn from the sheep described or referred to therein and then depasturing upon the lands mentioned therein, and shall entitle the grantee thereof to the wool of such sheep, not only while growing, but afterwards when shorn from the sheep, and wherever the same may be.

Bill of Sale over wool.

37 No subsequent sale, bailment, mortgage or other encumbrance of the sheep mentioned in any such Bill of Sale shall prejudicially affect such Bill of Sale or the rights of the grantee thereof to the wool specified or referred to therein.

Not affected by subsequent dealing.

38 Any such Bill of Sale may be in the form set forth in the Schedule (8.) hereto.

Form of security. Schedule (8.).

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

Bill of Sale over mortgaged sheep.

Implied Covenants, &c.

40 There shall be implied in every Bill of Sale the following covenants on the part of the grantor thereof, and such implied covenants shall have the same effect as if the same had respectively been set forth in such Bill of Sale at length, except so far as therein modified:—

Implied covenant in all Bills of Sale.

- i. That the grantor has good right and full power to assign the chattels purported to be herein assigned unto the grantee as is herein mentioned, and that free and clear from all encumbrances other than such as are herein mentioned:

Right to convey.
Freedom from encumbrances.
- ii. That the grantee shall and may exercise the powers and authorities hereby conferred or intended so to be without any lawful interruption or disturbance from the grantor or any person or persons whomsoever:

Quiet enjoyment

Bills of Sale.

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Further
assurance.

- iii. That the grantor will, at the cost of the grantee (unless this instrument is by way of security, and then at the cost until sale of the grantor and thereafter of the person requiring the same), do and execute all such acts, deeds, matters, and things for further or more perfectly assuring the chattels hereby assigned or intended so to be unto the grantee or such other person as aforesaid, or for enabling the grantee or such other person to obtain possession of the same, as by the grantee or such other person may from time to time be reasonably required, and will not do or suffer anything whereby the said chattels or any of them shall or may be prejudicially affected.

Implied covenants
in Bills of Sale by
way of security.

41 In addition to the covenants implied under the last preceding Section, there shall be implied in every Bill of Sale by way of security the following covenants, provisos, agreements, and powers, or such of them as are applicable thereto, and such implied covenants, provisos, agreements, and powers, subject to any modification thereof, shall have the same effect as if the same had respectively been set forth in such Bill of Sale at length, except so far as therein modified:—

To pay principal
and interest.

- i. That the grantor will pay to the grantee the principal and other moneys and interest hereby secured after the rate and at the times herein mentioned without any deduction whatsoever :

Interest on further
advances.

- ii. That the grantor will also pay interest on any further advances which may be secured by this instrument computed from the time of the same being made respectively, at the rate and on the dates mentioned for the payment of interest in this instrument :

To secure
property.

- iii. That the grantor will not at any time while any moneys shall remain owing on this security do or allow any act or deed whereby the chattels hereby assigned shall or may become prejudicially affected, and will at all times while any moneys remain due on this security duly pay all rents, rates, taxes, and other charges and outgoings from time to time coming due or payable in respect of any lands, houses, or buildings on which any of the chattels hereby assigned may for the time being be situated; and will from time to time, at the grantee's request, produce to him the receipt for every such payment, or furnish him with reasonable proof that such payments have been made :

To pay rents,
rates, &c.

- iv. That, until the grantor shall make default in the payment of any of the principal, interest, or other moneys hereby secured, or in the observance or performance of any covenant, condition, or agreement herein expressed or implied and on his part to be observed and performed, it shall be lawful for the grantor to retain possession and use of the chattels hereby assigned :

Until default
grantor to retain
possession.

Not to remove.

- v. That the grantor will not, while in possession as aforesaid, remove, or suffer to be removed, any of the movable portion of the chattels hereby assigned from where they now are, without the consent of the grantee, except for necessary repairs, or for the purpose of substituting other property of the same kind in their place of equal or greater value, or except in the ordinary course of business :

To keep in good
order.

- vi. That the grantor will at all times while any money shall remain owing on this security, keep and maintain all and

Bills of Sale.

- singular the chattels hereby assigned in good order and condition ; and if any of the same shall be damaged, lost, or destroyed, or cease to exist, will repair such damage or replace the chattels so destroyed or which have ceased to exist with others of a like value and nature ; and further, shall and will, if required so to do by the grantee, execute such instrument as may be necessary to give to the grantee security over the chattels replacing the chattels hereby assigned which have been destroyed or ceased to exist : A.D. 1900.
- vii. That the grantee or any person authorised in writing by him shall be at liberty at all reasonable times to enter upon any premises occupied by the grantor for the purpose of inspecting the chattels hereby assigned and the state and condition thereof, and of taking schedules and inventories of the same, and for all other reasonable purposes connected with this security : Power to enter.
- viii. That the giving by the grantor to the grantee of any bill of exchange or promissory note for the whole or any part of the money hereby secured shall not, until such bill or note be honoured or met, be considered as payment of or on account of the moneys secured by this instrument, or in any way affect or alter the rights or powers of the grantee by virtue of this instrument ; and no promissory note or bill of exchange which before, at, or any time after the execution of this instrument may be given by the grantor to the grantee for the whole or any portion of the moneys hereby secured, or the remedy thereon of the grantee or of the holder thereof, shall merge in the covenants hereby expressed or implied : Bills of exchange.
- ix. That it shall be lawful for, and the grantor doth hereby expressly authorise and license the grantee, either personally or by or with his agents or servants, at any time or times hereafter, without any further consent by the grantor, and without the necessity of giving to the grantor any notice whatsoever or waiting any time whatsoever, and notwithstanding any acceptance of any payment of any money due on this security, and either before or after the principal interest or other moneys intended to be hereby secured or any part thereof respectively, shall have become payable, or before or after default shall have been made in the observance or performance of any of the covenants, conditions, or agreements herein expressed or implied, and on the grantor's part to be observed and performed, to take possession of all and singular or any part of the said chattels, and either to remove, take, and carry away the same, or any of them, or to remain in possession thereof without removing the same, and also to relinquish possession thereof, and again to retake and retain possession thereof, and make any fresh demand or demands without in any way invalidating or prejudicing this security ; and for the purposes aforesaid or any of them, or for any purposes connected therewith, to have full liberty of ingress, egress, and regress to and from any land, house, or other buildings or premises in or upon which any of the said chattels shall then be or be supposed to be ; and for all or any of the purposes aforesaid to break open any outer or inner doors, windows, gates, fences, or other Power to seize and sell.

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obstructions without any legal process whatsoever; and that the grantee or any agent or servant as aforesaid shall not be deemed or considered a trespasser or trespassers in consequence of exercising all or any of the powers hereinbefore granted or contained, and this deed may be pleaded in bar, and shall be deemed and taken to be a good defence to any action or other proceeding that may be had or taken against the grantee or any agent or servant as aforesaid for any act done in relation to or by virtue of these presents; and that if default shall be made in payment of any of the moneys hereby secured, or any part thereof, on the day on which or at the time at which the same ought to have been paid according to the terms hereof or for the space of Twenty-four hours after payment thereof shall have been demanded by and on behalf of the grantee (in case the said moneys shall be made payable on demand), or in the observance or performance of any of the covenants, conditions, or agreements herein expressed or implied, and on the grantor's part to be observed and performed, then and in such case it shall be lawful for the grantee, without any further consent on the part of the grantor, to sell the said chattels or any of them, together or in lots, and either by public auction or private contract, at such price or prices and upon and subject to such terms and conditions as he may think fit, with liberty for the grantee to buy in the said chattels or any part thereof at any sale by auction, and to rescind or vary the terms of any contract for sale, and to re-sell the chattels so bought in or the contract for the sale whereof has been rescinded as aforesaid, without being answerable for any loss or expense or diminution in price, and with liberty also upon any such sale to give time for the payment of the purchase-money or any part thereof, either with or without security, and also to execute any Bills of Sale or other assurances, and to give effectual receipt for any purchase-money so that the receipt of the grantee or his agent shall be a sufficient discharge to any person at such sale for any of the purchase-money, and to execute all such assurances, and to do all such other acts, matters, and things for effectuating and completing any such sale as may be necessary and proper, or as the grantee may think fit. And upon any sale purporting to be made in exercise of the powers herein expressed or implied, no purchaser shall be bound or concerned to see or inquire whether any such default has been made as aforesaid or otherwise as to the propriety or regularity of any such sale, or be affected by notice, express or constructive, that no such default has been made as aforesaid, or that any such sale is otherwise improper, irregular, or unnecessary. And the grantee shall stand possessed of the proceeds of any such sale upon trust after paying thereout the costs, charges, and expenses of and incidental to such taking possession and sale and otherwise incurred in relation to this security, to apply the same in reduction of the moneys then owing on the security of this instrument including all moneys herein covenanted to be paid, notwithstanding that the same may not then have become due, and any promissory notes or bills of exchange that

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may then be current for the same, and to pay the balance A.D. 1900.
(if any) to the grantor.

42 Such of the following expressions as shall be used in any Bill of Sale or in any of the covenants, powers, provisos, or agreements implied therein, shall have the meaning by this Section given to the same, unless modified by or inconsistent with the Bill of Sale:—

- Abbreviated forms.
- i. The words "upon demand" shall mean upon demand being made by notice in writing signed by the person entitled to make the demand, or any duly authorised agent or clerk or servant of his, and served upon the person upon whom the demand is to be made either personally or left at or affixed to or posted in a duly registered letter addressed to him at his usual or last-known place of abode or business in *Tasmania*, or by one advertisement in some newspaper for the time being published nearest to the place where the chattels are or are supposed to be, or to the last-known place of abode of the grantor; and, in the case of the notice being served by post as aforesaid, the demand shall be deemed made when such letter would arrive in the ordinary course of post; and after the decease of the person upon whom the demand would, if living, be made, a notice left at or affixed to the last or last-known place of abode or business in *Tasmania* of the deceased, and addressed generally to his personal representatives, or by advertisement as aforesaid, shall be a sufficient demand, whether, at the time of leaving or affixing such notice or of such advertisement, he shall have a legal personal representative or not: "Upon demand."
- ii. The words "further advances" shall mean such further sum or sums of money as may be advanced or paid by the grantee to or for the grantor after the execution of this instrument, and include also such sums as may become owing by the grantor to the grantee during the continuance of this instrument for goods supplied and for bills and notes discounted or paid, or drawn, made, accepted, or indorsed by the grantee, and for other loans, credits, and advances which may, during the continuance of this security, be made by the grantee to or for the accommodation or at the request of the grantor: "Further advances."
- iii. The words "will insure" shall mean that the person liable to insure will insure, and will at all times during the continuance of this security keep insured against loss or damage by fire in the name of the other party to this instrument, in some public insurance office to be approved in writing by the person in whose name such insurance is to be effected, the chattels comprised in this security or intended so to be which shall be of a nature or kind capable of being insured against loss or damage by fire, to the full amount specified in this instrument, or if no amount be specified then to the full insurable value of such chattels, and that he will duly pay all premiums and sums of money from time to time payable for that purpose, and that he will at the request of the person in whose name such insurance is to be effected hand over or deposit with him the policy of every such insurance, and produce and deliver to him the receipt or receipts for the annual or other "Will insure."

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premiums payable on account thereof, and that if default be made in the performance or observance of this covenant it shall be lawful for the person in whose name such insurance should have been effected, without prejudice nevertheless to and concurrently with the powers granted him by this instrument or otherwise by law, to insure such chattels or any of them to the amount aforesaid or to any less amount, and he may forthwith recover the costs and charges of such insurance from the other party to this instrument, with interest, as if the same had been advanced to him by way of loan on the security of this instrument, and that all moneys received under or by virtue of such insurance shall, at the option of the grantee, either be applied in or towards replacing and reinstating the said chattels, or in or towards the payment of the moneys for the time being owing on this security so far as the same will extend.

Covenants to be joint and several.

43 Whenever there is more than one grantor or more than one grantee of any Bill of Sale, then the covenants, conditions, provisos, powers, and agreements expressed in such Bill of Sale or implied therein by virtue of this Act, and imposing an obligation on such grantors or grantees, or inuring for the benefit of such grantors or grantees, shall be deemed to impose such obligations or confer such benefits, as the case may be, severally as well as jointly, unless and in so far as a contrary intention appears.

Covenants to bind representatives.

44 In any Bill of Sale, unless the contrary be expressed, all covenants, conditions, provisos, powers, and agreements therein expressed or therein implied by virtue of this Act, shall bind the executors, administrators, and assigns of the person upon whom such covenants, provisos, powers, and agreements shall impose an obligation, and shall operate for the benefit of the executors, administrators, and assigns of the person for whose benefit the same shall inure.

Construction of covenants.

45 In the construction of a covenant, condition, proviso power, or agreement contained in any Bill of Sale or implied in any Bill of Sale by virtue of this Act, words importing the singular or plural number, or the masculine gender, shall be read as also importing the plural or singular number, or as extending to females, as the case may require.

Fees.

46 There shall be paid to and received by the Registrar for and in respect of matters arising or required to be done under this Act, the following fees; viz. :—

	<i>s.</i>	<i>d.</i>
For every notice lodged of intention to make or give a Bill of Sale	1	0
For every caveat entered against the making or giving of a Bill of Sale	1	0
For every registration of a Bill of Sale ...	1	6
For every affidavit filed for renewing the registration of a Bill of Sale	2	6
For every certificate of satisfaction filed and entered	1	0
For every search against one person.....	1	0
For every general search	10	0
For every memorandum of a reloan.....	1	0

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47 All moneys received by the Registrar under this Act shall be paid into the Treasury, and shall form part of the Consolidated Revenue Fund. A.D. 1900.
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Appropriation.

SCHEDULE.

(1.)

NOTICE OF INTENTION TO MAKE OR GIVE BILL OF SALE.

Sect. 10.

Person or Persons intending to make or give Bill of Sale.			Property to be comprised in Bill of Sale.		Intended Consideration.			Person or Persons to whom Bill of Sale is intended to be given.		
Name or Names in full; and, where the Persons are a partnership firm not incorporated, the usual name or style of such firm.	Place of Business or Residence.	Business or Occupation.	Description.	Where situate.	Past Debt.	Advancement at time of giving Bill of Sale.	Future advances.	Name or Names in full.	Place of Business or Residence.	Business or Occupation.

I [or we], the abovenamed [fill in name or names of person or persons intending to make or give Bill of Sale], hereby give notice that I [or we] intend to make or give to the abovenamed [fill in name or names of person or persons to whom Bill of Sale is intended to be given], a Bill of Sale of the property above described to secure the debt or intended advances abovementioned.

And I [or we] hereby direct that notice of any caveat which may be entered against the registration of such Bill of Sale may be posted, addressed, as follows [fill in address.]

Dated this day of 19
 [Signature of person or persons intending to make or give Bill of Sale, or his or their attorney or agent.]

To the Registrar of the Supreme Court.

Lodged this day of 19
Registrar.

N.B.—Where the Bill of Sale is not given as security, but is an absolute assignment, leave out the columns relating to intended consideration and insert the words "Absolute Assignment," and state the amount of purchase money or other consideration; and alter the latter part of the notice accordingly.

(2.)

To the Registrar of the Supreme Court.

Sect. 11.

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, the place of business or residence, and the business or occupation of the caveator or caveators], being a creditor [or creditors] of [fill in name or names, place of business or residence, and business or occupation of the person or persons intending to make or give a Bill of Sale as described in his or their notice] in respect of a debt of [or of joint debts amounting to] £ [state the amount claimed to be due] due to me [or us] for [state the nature of the debt, as for "goods sold and delivered," "on balance of account current," "money lent," "rent," or as the case may be] hereby forbid the registration of the Bill of Sale specified in the notice given by the said [fill in name], lodged on the day of [fill in month and day], 19 [fill in year], and I [or we] hereby appoint [fill in name] as the place at which [and, (where the caveators are a partnership firm not incor-

Bills of Sale.

(6.)

A.D. 1900.

CERTIFICATE OF SATISFACTION.

Sect. 30.

I [*or we*] , of , being the person [*or persons*] entitled to discharge the Bill of Sale bearing date the day of , 19 , and made between [*insert name and description of the parties, as in the Bill of Sale*], and which said Bill of Sale was registered under "The Bills of Sale Act, 1900," on the day of , 19 , do hereby certify and acknowledge that such Bill of Sale has been fully satisfied, [*or, in the case of partial satisfaction*], satisfaction to the amount of £

Dated this day of , 19 .

Witness—

(7.)

I, A.B., of being the grantor or giver of a Bill of Sale, dated Sect. 30.
the and filed the day of 19 to C.D., of
do hereby certify and acknowledge that I have been again lent by
C.D. this day, the sum of £

Dated this day of 1900.

Witness—

(8.)

LIEN ON WOOL.

Sect. 38.

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

It is agreed that [*the grantee*] shall be entitled to interest at the rate of per centum per annum, from the day of 19 , on the sum of

It is further agreed that the wool shall be shorn at my expense and delivered to the order of the said [*grantee*] at

[*If the parties intend that the grantee should have power to sell, add the words*] and that the said [*grantee*] may sell all wool so delivered, and retain the expenses of sale and the moneys due to him on this security from the proceeds of sale.

Dated this day of , 19 .

Signed in the presence of

