

No. II.

**An Act for preventing Frauds upon Creditors
by Secret Bills of Sale of personal Chattels.
[18th July, 1855.]**

SECRET BILLS OF
SALE.

WHEREAS frauds are frequently committed upon creditors by Preamble. secret Bills of Sale of personal chattels whereby persons are enabled to keep up the appearance of being in good circumstances and possessed of property and the grantees or holders of such Bills of Sale have the power of taking possession of the property of such persons to the exclusion of the rest of their creditors For remedy whereof be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof as follows:—

1. 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 and 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 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 or recorded in the Office of the Supreme Court within thirty days after the making or giving of such Bill of Sale (in like manner as a warrant of attorney to confess judgment in the Supreme Court is now by law required to be filed or recorded) otherwise 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 the laws relating to insolvency or under any assignment for the benefit of the creditors of such person and as against all Sheriff's 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 authorizing 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 filing the insolvent's or a creditor's petition in such insolvency or of the execution by the debtor of such assignment for the benefit of his creditors or of executing such process (as the case may be) and after the expiration of the said period of thirty days shall be in the possession or apparent possession of the person making such Bill 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.

2. 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 Defeasance or condition of every Bill of Sale to be written on the same paper or parchment.

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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 had not been filed according to the provisions of this Act.

Officer of Court to keep a book containing particulars of each Bill of Sale.

3. The Prothonotary of the said Supreme Court shall cause every Bill of Sale and every such schedule and inventory as aforesaid and every such copy filed in his said office under the provisions of this Act 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 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 paying to the officer for every search against one person the sum of sixpence and no more and that in addition to the last-mentioned book the said Prothonotary shall keep another book or index in which he shall cause to be fairly inserted as and when such Bills of Sale are filed in manner aforesaid the name addition and description of the person making or giving the same or of the person against whom such process shall have issued as the case may be and also of the persons to whom or in whose favour the same shall have been given but containing no further particulars thereof which last-mentioned book or index all persons shall be permitted to search for themselves paying to the officer for such last-mentioned search the sum of one shilling.

Office fee of 2s. 6d. for filing Bill of Sale.

4. An office fee of two shillings and sixpence and no more shall be paid to the said Prothonotary for filing and entering every such Bill of Sale or a copy thereof as aforesaid.

Office copies or extracts to be given on paying as for copies of judgments.

5. 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 at the like rate as for office copies of judgments in the said Supreme Court.

Satisfaction may be entered.

6. It shall be lawful for any Judge of the said Supreme Court to order a memorandum of satisfaction to be written upon any Bill of Sale or copy thereof respectively as aforesaid if it shall appear to him that the debt (if any) for which such Bill of Sale is given as security shall have been satisfied or discharged.

Interpretation of terms.

7. In construing this Act the following words and expressions shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant to such constructions (that is to say)—

The expression "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 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 person making or giving the same

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same marriage settlements transfers or assignments of any ship or vessel or any share thereof transfers of goods in the ordinary course of business of any trade or calling 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 authorizing or purporting to authorize either by indorsement or by delivery the possessor of such document to transfer or receive goods thereby represented

The expression "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 interests 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 or of the custom of the country 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

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 shall remain or be in or upon any house mill warehouse building works yard land or other premises 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.

8. Nothing in this Act contained shall be deemed to affect the provisions of the present or any future Act passed to give effect to liens on wool and mortgages on sheep cattle and horses.

Not to affect present or any future Act regulating liens on wool and mortgages on sheep &c.

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 and number.	Date of execu- tion.	Date of filing.	Sum for which made or given.	When and how payable.