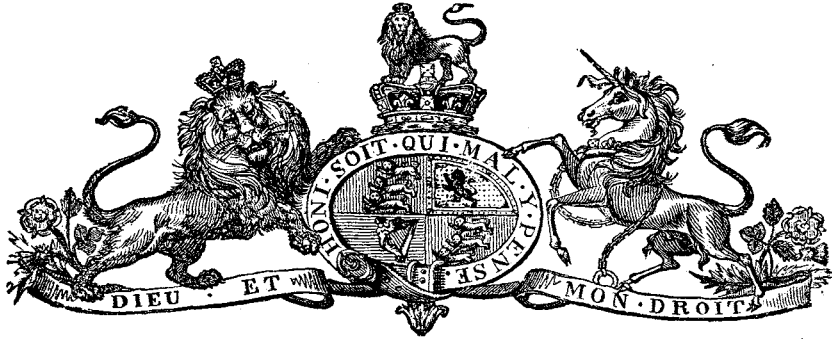


T A S M A N I A.



1858.

ANNO VICESIMO-SECUNDO

VICTORIÆ REGINÆ,

English No. 4.
17 & 18 V. c. 36

Am. by 31 A. 11. 114

AN ACT for preventing Frauds upon Creditors
by secret Bills of Sale of personal Chattels.

[1 October, 1858.]

WHEREAS Frauds are frequently committed upon Creditors by 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 *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, 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 has 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 is 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 is made or given by any person under or in the execution of any process, then a description of the residence and

Bills of Sale to be void, unless the same or a copy thereof be filed within Twenty-one days, in like manner as Warrants of Attorney.

Value Affidavit not required but a Common Law Misd. Reg. v. Scott Hodgkins 39 L. J. M. 6. 14

occupation of the person against whom such process has issued, and of every attesting witness to such Bill of Sale, be filed with the Registrar of the Supreme Court, within Twenty-one 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, 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 authorising the seizure of the goods of the person by whom or of whose goods such Bill of Sale has been made, and against every person on whose behalf such process has 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 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 Twenty-one days, are in the possession or apparent possession of the person making such Bill of Sale, or of any person against whom the process has issued under or in the execution of which such Bill of Sale has been made or given, as the case may be.

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

2 If such Bill of Sale is 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 is written, before the time when the same or a copy thereof respectively is 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.

Registrar to keep a book containing particulars of each Bill of Sale.

3 The said Registrar shall cause every Bill of Sale, and every such Schedule and Inventory as aforesaid, and every such copy filed in his office under the provisions of this Act, to be numbered, and shall keep a book in his 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 is 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 has issued, and also of the person to whom or in whose favour the same has 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, if any, when the same is thereby made payable, according to the form in the Schedule, which said book, 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; and, in addition to the last-mentioned book, the said Registrar shall keep another book in the manner of an index, in which he shall cause to be fairly inserted, as and when such Bills of Sale are filed in manner aforesaid, the number thereof, the name, addition, and description of the person making or giving the same, or of the person against whom such

process has issued, as the case may be, and also of the persons to whom or in whose favour the same has been given, but containing no further particulars thereof; which last-mentioned book all persons shall be permitted to search for themselves.

4 Such Office Fees shall be received by the said Registrar for filing and entering every such Bill of Sale or a copy thereof as aforesaid, and for Searches in the said Books as are, from time to time, in that behalf appointed by any General Order of the Supreme Court. *9.0. 58-1127*

Office Fees on filing Bills of Sale or Searches.

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 Supreme Court.

Office copies or extracts.

6 It shall be lawful for any Judge of the Supreme Court to order a Memorandum of Satisfaction to be written upon any Bill of Sale or copy thereof respectively as aforesaid, if it appears to him that the debt, if any, for which such Bill of Sale is given as security has been satisfied or discharged.

Satisfaction may be entered.

7 All moneys received by the said Registrar under this Act shall be paid into the Colonial Treasury, and shall be applied in aid of the General Revenue.

Appropriation of Office Fees.

8 In construing this Act the following words and expressions shall have the meanings hereby assigned to them, unless there is something in the subject or context repugnant to such construction; that is to say,

Interpretation of Terms.

“ 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 documents; that is to say, Assignments for the benefit of the Creditors of the person making or giving the 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; 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 the endorsement or by delivery, the possessor of such document to transfer or receive goods thereby represented:

“ 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 may 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 remain or are in or upon any house, mill, warehouse, building, works, yard, land, or other premises occupied by him, or as they are used and enjoyed by him in any place whatsoever, notwithstanding that formal possession thereof may have been taken by or given to any other person.

Short Title.

9 In referring to this Act it shall be sufficient to use the expression *The Bills of Sale Registration Act*.

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.