



ANNO QUARTO

GEORGII VI REGIS.

A.D. 1940.

No. 52 of 1940.

An Act to amend the Bills of Sale Act, 1886-1935.

[Assented to 5th December, 1940.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

Short titles.

1. (1) This Act may be cited as the " Bills of Sale Act Amendment Act, 1940 ".

(2) The Bills of Sale Act, 1886-1935, as amended by this Act, may be cited as the " Bills of Sale Act, 1886-1940 ".

(3) The Bills of Sale Act, 1886-1935, is hereinafter called " the principal Act ".

Incorporation.

2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act.

Amendment of principal Act, s. 11.

3. Section 11 of the principal Act is amended by striking out the word " bringing " in the penultimate line of paragraph (6) thereof and inserting in lieu thereof the word " buying ".

Amendment of s. 17 of principal Act—Consequential amendment.

4. Section 17 of the principal Act is amended by inserting at the commencement thereof the words " Subject to sections 19a to 19c of this Act ".

Enactment of ss. 19a to 19c of the principal Act—

5. The following sections are hereby enacted and inserted in the principal Act after section 19 thereof :—

Renewal of registration of bills of sale.

19a. (1) The registration of every bill of sale which was registered before the commencement of the Bills of Sale Act Amendment Act, 1940, shall become void upon the expiration of twelve months after the said commencement unless that registration is renewed within

that period of twelve months in the manner prescribed in this section.

(2) The registration of every bill of sale which is registered after the commencement of the Bills of Sale Act Amendment Act, 1940, or the registration of which is renewed after the said commencement, shall become void upon the expiration of five years after the last previous registration or (as the case may be) renewal of registration, unless that registration is renewed within that period of five years in the manner prescribed in this section.

(3) The renewal of a registration shall be effected by lodging with the Registrar a statutory declaration by the grantee or a person acting on his behalf, in the form and containing the particulars set out below and declaring that the bill of sale is still a subsisting security.

(4) The statutory declaration shall be in the following form :—

I.....of
do solemnly and sincerely declare that the bill of
sale, registered No....., bearing date the....
.....day of.....19.....
and made between.....and
....., and registered on the.....
day of..... 19.... is still a subsisting security.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act, 1936.

..... [Signature of declarant.]

Declared before me at.....
the.....day of..... 19....
.....[Signature of J.P. or other person
taking the declaration.]

(5) The registrar shall indorse a memorandum of every renewal of the registration of a bill of sale on the original of that bill of sale filed in the registry, and on the duplicate thereof, if produced to him.

(6) This section shall not apply to—

- (a) any registered mortgage of stock as defined in the Stock Mortgages and Wool Liens Act, 1924-1935 ; or
- (b) any registered agreement conferring a preferable lien on wool.

(7) An extension of a bill of sale duly registered as provided in section 21 of this Act shall be deemed to be a renewal of the registration of that bill of sale.

(8) A renewal of registration shall not become necessary by reason only of the transfer or assignment of a bill of sale.

(9) The fees payable in respect of the preparation, filing and indorsement of the renewal of the registration of a bill of sale shall be payable by the grantor, and if the grantee or any other person pays them, he may recover them from the grantor.

Power of registrar to extend time for registration and renewal.

19b. (1) If the registration of a bill of sale has not been renewed within the time prescribed by this Act, the Registrar, on the application of the grantee or the holder of the bill of sale or of any other person interested and on being satisfied that the omission to renew registration was accidental or was due to inadvertence may, in his discretion at any time not later than three months after the time when the registration of the bill of sale should have been renewed, renew the registration of the bill of sale.

(2) If the Registrar, on an application under this section, does not renew the registration of the bill of sale, the applicant may apply to the Supreme Court or a local court under section 19c of this Act.

(3) The Registrar-General shall exhibit and keep exhibited in a conspicuous place in the General Registry Office at Adelaide a list of all applications which have been made to him under this section and which he has refused. The list, in addition to any other particulars that may be prescribed, shall contain—

(a) the names of the grantor and grantee of each bill of sale in respect of which an application has been made ; and

(b) a short description of the chattels comprised in the bill of sale, and the situation thereof.

Power of Court to extend time for registration and renewal.

19c. (1) On an application made under subsection (2) of section 19b to the Supreme Court, or the local court of full jurisdiction nearest to the place where the grantor of the bill of sale resides, the court on being satisfied that the omission to renew registration was accidental or due to inadvertence, may in its discretion and on any terms and conditions which the court deems just, order that the time for renewing the registration of the bill of sale shall be extended.

(2) On the hearing of any application under this section any person claiming to be entitled to any interest in the chattels comprised in the bill of sale to which the application relates may attend and be heard.

(3) The jurisdiction conferred on the Supreme Court by this section shall be exercised by a single judge of

that court and the jurisdiction conferred on a local court shall be exercised by a special magistrate.

19d. The Registrar may destroy any document kept in his office and being— Destruction of old bills of sale.

- (a) the original or duplicate of a bill of sale which has been discharged or has become void by reason of the non-renewal of the registration thereof ;
or
- (b) any memorial filed under the Act No. 8 of 1841-42 in respect of any bill of sale ; or
- (c) any index or other record of any bill of sale or memorial which the registrar is by this section authorized to destroy :

Provided that a bill of sale registered after the commencement of the Bills of Sale Act Amendment Act, 1940, shall not be destroyed earlier than five years after it is discharged or the registration of it becomes void.

19e. If a bill of sale over any chattels is registered between the time when the registration of a prior bill of sale over the same chattels became void under section 19a of this Act and the time when that registration was renewed under section 19b or pursuant to section 19c of this Act, the bill of sale first mentioned shall be entitled to priority over the said prior bill of sale. Bills of Sale registered after expiry of registration of prior bill of sale.

6. Section 28 of the principal Act is amended by inserting after the word " provided " in the fourth line thereof the words " or within any extended time allowed under section 19b or 19c of this Act " . Amendment of s. 28 of principal Act—Consequential Amendment.

7. (1) The sixth schedule to the principal Act is amended— Amendment of sixth and seventh schedules to principal Act—Fees.

(a) by striking out the word " transmission " in the fifth line thereof and inserting in lieu thereof the word " extension " ; and

(b) by inserting after the line commencing " For every search " the following line—

For filing renewal of registration of a bill of sale and indorsing such renewal on original bill of sale 2s. 6d.

(2) The seventh schedule to the principal Act is amended by striking out the word " transmission " in the ninth line thereof and inserting in lieu thereof the words " extension, renewal of registration " .

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

C. M. BARCLAY-HARVEY, Governor.