

THE



# Bombay Government Gazette.

Published by Authority.

THURSDAY, 24<sup>TH</sup> DECEMBER 1896.

Separate paging is given to this Part, in order that it may be filed as a separate compilation.

## PART VI.

### BILLS OF THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th December 1896 :—

#### Bill No. 27 of 1896.

*A Bill to provide for the compulsory registration of certain transfers and dispositions of goods in order to prevent debtors from defeating the claims of their creditors by secret assignments of such goods.*

WHEREAS it is expedient to provide for the compulsory registration of certain transfers and dispositions of goods in order to prevent debtors from defeating the claims of their creditors by secret assignments of such goods; it is hereby enacted as follows :—

Short title, extent, application and commencement.

1. (1) This Act may be called the Indian Bills of Sale Act, 1896;

(2) It extends to the whole of British India; and

(3) It shall come into force only in such local areas and with effect from such dates as the Local Government may, by notification in the official Gazette, direct.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(1) "bill of sale" means any document recording the sale, mortgage or other transfer of goods, or creating any charge thereon, and includes a license to seize goods;

(2) "goods" mean all corporeal moveable property other than money; and

(3) "assignee in bankruptcy" includes any person in whom the estate of an insolvent or bankrupt is vested by any law for the time being in force.

3. Subject to the provisions of section 4, where the owner of goods (hereinafter called the grantor) sells, mortgages or otherwise transfers the property therein, or creates any charge thereon, or gives a license to seize the goods, and such grantor remains in the apparent possession of the goods, such sale or other disposition as above-mentioned shall be void as against an execution-creditor or the assignee in bankruptcy of such grantor unless the following conditions are complied with, namely :—

(1) the sale or other disposition must be recorded in a bill of sale;

(2) the bill of sale must be registered within seven days of the completion of such sale or other disposition.

*Explanation.*—Goods shall be deemed to be in the "apparent possession" of a grantor so long as they remain or are in or upon any house, warehouse, building, works, land or other premises occupied by him, or are used or enjoyed by him in any place whatsoever, notwithstanding that formal possession thereof may have been taken by, or given to, any other person.

*Illustration.*

A and B are husband and wife. A by an unregistered instrument transfers his household furniture to B. As long as A and B are living together, the furniture remains in A's apparent possession, and can be taken in execution for his debts.

[Of. 41 & 42  
Vict., c. 31,  
s. 4.]

Faving for mercantile  
transactions, &c.

4. Nothing in this Act shall apply to or affect the operation of—

- (1) any mercantile document of title to goods, that is to say, any bill of lading, dock-warrant, warehouse-keeper's certificate, warrant or order for the delivery of goods, or any other document used in the ordinary course of business as proof of the possession or control of goods or authorizing or purporting to authorize, either by endorsement or delivery, the possessor of the document to transfer or receive goods thereby represented;
- (2) any ante-nuptial marriage settlement;
- (3) any bill of sale executed outside British India;
- (4) any right of distress for rent, revenue or otherwise, or any right of priority given by law:

nor shall anything in this Act apply to or affect the transfer or other disposition of any ship or

share therein, which is required to be registered under any Merchant Shipping Act for the time being in force.

5. (1) The Governor General in Council may, by notification in the Gazette of India, make rules—

- (a) for the publication of registered bills of sale, or such particulars thereof as it may be expedient to publish;
- (b) for applying, with any necessary modifications, the provisions of the Indian Registration Act, 1877, in regard to bills of sale, and for fixing fees for the registration and publication thereof; III of 1877.
- (c) for extending, under special circumstances, the time for registration; and,
- (d) generally, for carrying out the objects of this Act.

(2) Any rule so made may from time to time be in like manner varied or rescinded.

#### STATEMENT OF OBJECTS AND REASONS.

THE attention of the Government of India was in 1894 directed to the case of a merchant who had given to his bankers by way of security a bill of sale over his entire stock in trade, the bill, which had apparently run for years without the knowledge of the grantor's other creditors, never having been registered by him. The "reputed ownership clause" (section 23) of the Indian Insolvency Act, 1848 (11 and 12 Vict., c. 21), which applies only to the Presidency-towns and to creditors in insolvency, contains a provision inserted with but little variation in every English Bankruptcy Act since the reign of James I.; but technical and somewhat narrow interpretations have been placed upon it by the Courts at home, and it has been found necessary in England to supplement it by the Bills of Sale Acts and other legislation. In India sections 108 and 178 of the Indian Contract Act (IX of 1872), in so far as they are relevant, merely enable the apparent owner of goods to sell or pledge them, although he has not obtained the consent of the true owner, while they do not touch the case of creditors, who, it follows, are, save for the very limited and rather uncertain protection afforded by section 23 of the Indian Insolvency Act of 1848, entirely left out in the cold in this country. It seemed, therefore, to the Government of India that a *prima facie* case for legislation had been made out, and the whole question has since formed the subject of correspondence with the Secretary of State and the various Local Governments and Administrations, who have been consulted upon it, with the result that there appears to be a general consensus of opinion that a law is required in India to safeguard execution-creditors and creditors in insolvency against such secret assignments of property as that referred to above. The form which legislation should take has been carefully considered, and it is thought that the Bill which it is now proposed to introduce in Council will be found to proceed on sound lines and to accomplish the object in view. Its main provision is to the effect that, where a person sells or charges his moveable property, but remains in ostensible possession under such circumstances as to be the apparent owner thereof, such property shall be liable to be taken in execution or by the assignee in bankruptcy unless the assignment or charge is in writing and is duly registered; but the Bill in no wise interferes with the validity of any transaction, as between grantor and grantee. In order to avoid interference with the ordinary course of trade, mercantile documents of title, such as bills of lading, dock warrants, &c., must continue to be exempt from registration and are, therefore, removed from the operation of the proposed enactment along with ante-nuptial marriage settlements, bills of sale executed outside British India, rights of distress and rights of priority specially conferred by law. Power is at the same time taken by clause 5 of the Bill for the Governor General in Council to make rules to supplement its provisions where necessary.

(Signed) M. D. CHALMERS.

The 15th December 1896.

J. M. MACPHERSON,  
Secretary to the Government of India.

## LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th December 1896 :

## Bill No. 28 of 1896.

*A Bill to amend the Indian Paper Currency Act, 1882.*

WHEREAS it is expedient to authorise an increase of the amount which may be invested in securities of the Government of India out of the coin and bullion received for currency notes under the law relating to the Government paper currency ; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Paper Short title and commence- Currency Act Amend- ment Act, 1896 ; and

(2) It shall come into force at once.

2. Section 19 of the Indian Paper Currency Act, 1882, as amended Amendment of Section 19, Act XX, 1882. by Act No. XV of 1890 (an Act to amend the

*Indian Paper Currency Act, 1882*), shall be read as if for the words "eighty millions" the words "one hundred millions" were substituted.

3. Act No. XV of 1890 (an Act to amend the Repeal of Act XV, 1890. *Indian Paper Currency Act, 1882*) is repealed, but not so as to affect the validity of anything heretofore done in pursuance of the provisions of that enactment.

## STATEMENT OF OBJECTS AND REASONS.

THE circulation of Currency Notes has very largely increased since power was taken in 1890 to raise to eight crores the limit of the amount of the Currency Reserve which may be invested in Government Securities.

It is proposed accordingly to take power to invest up to ten crores.

*The 11th December 1896.*

(Signed) J. WESTLAND.

J. M. MACPHERSON,  
Secretary to the Government of India.