

THE CHATTEL SECURITIES ACT, 1880.

THIS Bill deals with eight existing enactments affecting securities on personal chattels, the titles of which will be found in the Fourth Schedule to the attached Bill.

It may be termed a modified or rather a suggestive consolidation, because we have not attempted to reconcile the many different legal incidents which the Legislature has thought fit to attach to the various classes of instruments affected by these Acts. These legal incidents we shall hereafter indicate at length. Meantime we may observe that Part V., affecting registration and its renewal, and containing other miscellaneous enactments, alone presents an attempt at complete consolidation, because this part of the subject has features in common; although even here the principle of renewal of registration would be new as regards securities other than bills of sale.

The subject, as a whole, is one of considerable importance; but we have not felt ourselves at liberty to attempt further consolidations. In fact, this is one of a class of subjects which will occasionally present such difficulties as we refer to in our subsequent remarks—difficulties sure to arise when dealing with a group of subjects cognate in principle, but diverse in respect of consequences and requirements prescribed by the Legislature.

In 1878, the Imperial Legislature consolidated the law affecting bills of sale (*see* 41 and 42 Vict., c. 31). This measure is remarkable chiefly for embracing "trade machinery" in its definition of personal chattels, and for a specific enactment that chattels comprised in a bill of sale shall not be deemed to be in the order and disposition of the grantor within the meaning of "The Bankruptcy Act, 1869." There are other provisions of importance as to the avoidance of unregistered, and duplicate, bills of sale in certain cases, and for allowing a rectification of the register, &c.

In our "Debtors and Creditors Act, 1876" (section 65), it is provided that any *bond fide* duly-registered security, lease, or bailment of chattels shall not be prejudiced by the bankruptcy. This enactment has all the effect of that contained in the English Bills of Sale Act; but we have referred to these enactments as showing the modern tendency to give to chattel securities a status which they did not previously possess. It follows that it would seem appropriate to insert such a general provision in this Bill as regards the securities affected by it.

We proceed to indicate in detail the attempt made to bring all the enactments affecting chattel securities into one enactment.

This Bill is divided into Parts as follows:—

- Part I. Bills of Sale.
- Part II. Leases and Mortgages of Stock.
- Part III. Liens on Crops.
- Part IV. Liens on Wool and Oil.
- Part V. Registration of Instruments, and Miscellaneous Provisions.

Part I. (clauses 3 and 4):—

The interpretation clause is as in the original Act (No. 23 of 1867), but is broken up for convenient reference. The italic matter is necessitated by the consolidation with other enactments.

In the definition of personal chattels (subclause 4), the words "or of the custom of the country" have been omitted, they having no signification in this colony.

The remaining sections of "The Bills of Sale Act, 1867," relating to registration, fees, searches, &c., have been omitted from this Part of the Bill, but, with such additions as seemed necessary, have been included in Part V.

Part II. Leases and Bailments of Stock (clauses 5 to 8, inclusive) :—

This Part embraces the Acts of 1868, No. 11, and 1869, No. 34. Clauses 6 and 7 reproduce section 3 of the original Act of 1869, but omit all provisions relating to registration. There is an ambiguity in clause 7, to which we desire to draw attention. It purports to declare that stock or chattels shall not be deemed in the order or disposition of the lessee or bailee within the meaning of any Act relating to bankruptcy unless there be something in the lease or contract to the contrary *thereof* or repugnant *thereto*. Apparently it is meant that there shall be nothing in the lease or contract which shall defeat any Bankruptcy Act; but the wording is obscure.

Mortgages of Stock (clauses 9 to 20, inclusive) :—

Clause 9 starts with a declaration that mortgages of stock made *bond fide* and for valuable consideration may be registered. This is a legal incident not attaching to leases of stock.

The provision in the same clause as to branding is somewhat similar to that in clause 6; but with this difference, that in the latter the brand must be "other than that of the lessee or bailee," while no such provision is contained in clause 9.

Clauses 10 and 11 contain additional provisions, and also refer to the stock affected remaining in the order and disposition of the mortgagor. Contrast clause 11 with clause 7.

Clause 12 says, distinctly, no protection shall be given unless the mortgage is executed at least sixty days before bankruptcy, and attaches other conditions to the security. It may be that section 65 of "The Debtors and Creditors Act, 1876," controls this provision; but we have not attempted to alter it in any way.

Clause 14 includes increase of stock, and all stock branded as specified. Contrast this with the preceding clause 8, and note the variation. The latter part of clause 14 specifies in detail the powers of the mortgagee in case of default.

Clause 17 gives specific rights to an assignee of this kind of security. If it be necessary to set out these provisions at all, it is suggested they should be extended to all the securities mentioned in this Bill.

Clause 18 is an elaborate provision as to the registration of a receipt when the mortgage is paid off. It would appear that the provision as to entry of satisfaction in Part V. would suffice for all purposes; but, for the reasons stated in our preceding general remarks, we have not deemed it competent to us to omit this provision.

Clause 19 only applies to this particular class of security.

Part III. Liens on Crops (clauses 21 to 31, inclusive) :—

This substantially reproduces 1871, No. 36, omitting all reference to registration.

In clause 24 will be found provisions affecting the position of parties where the holder of the security fails to meet his engagements with the person giving it. This clause illustrates the difficulty met with in attempting to consolidate these enactments: although in the Wool and Oil Securities Act precisely the

same kind of security may be given, yet in the latter there is no such provision as in clause 24.

Clauses 26 and 27, it will be seen, are very similar to clauses 11, 15, and 16 occurring in the previous Part of the Bill.

Clause 31 may be contrasted with clauses 40 and 41 in the succeeding Part. Both prescribe punishments for frauds on the holder of the lien. Clause 31 makes the matter punishable by fine or imprisonment. Clause 40 makes it a matter of action by civil process.

Part IV. Liens on Wool and Oil (clauses 32 to 41, inclusive) :—

This Part embraces the Acts of 1858, No. 12, and 1871, No. 35.

Clause 35 is similar to clause 27 in the previous Part; but each has in it some matter not appearing in the other.

Clause 38 gives a power of transferring securities by indorsement. This is not given in the case of liens on crops, nor of any other kind of security affected by this Bill.

To clauses 40 and 41 attention has already been directed.

Part V. Registration and Miscellaneous (clauses 42 to 62, inclusive) :—

As already observed, this Part is an attempt to bring together all the provisions affecting registration, re-registration, entry of satisfaction, searches, fees for filing, &c.

All the existing statutes require that instruments shall be filed or registered in the provincial district where the chattels, stock, crops, or wool and oil are situate. Fees for filing are prescribed, books for entry of particulars directed to be kept, and searches allowed.

In this Part the new matter is not indicated in italics, the whole being new as affects securities other than bills of sale; but the particular clauses are mainly adaptations from "The Bills of Sale Act, 1867."

Clause 46 groups together the *present* dates within which instruments may be filed. Our object has been to bring under notice the differences which exist, and to suggest whether there is any need that such differences should continue.

Clauses 47 to 52 are the existing law as affects bills of sale. Substantially they may be said to be the law affecting the other securities dealt with, with the exception of clause 52, which is peculiar to bills of sale.

Clauses 53 to 56. These at present only affect bills of sale. They are inserted here by way of suggestion that the law should be uniform as to requiring re-registration for any security enduring, or capable of enduring, *for more than a year*. This qualification is necessary in the case of liens on crops, and wool and oil, which are of necessarily limited duration.

Clause 56 is taken from "The Liens on Crops Act, 1871."

Clauses 59 and 60 deal with the entry of satisfaction upon payment of amounts secured. These are the present provisions of the Bills of Sale Act. Attention has already been directed to clause 18, as to mortgages of stock, and in the case of wool and oil securities the Registrar may cancel the security on request of the holder. In the case of leases and bailments of stock, and of liens on crops, there is no means of showing how they are satisfied or discharged.

However, there seems no good reason why the entry of satisfaction by the holder of the security, and the power exercisable by a Judge of the Supreme Court to order satisfaction to be entered, should not be extended to all the instruments affected by this Bill.

Clause 63 repeals the existing Acts.

ALEXANDER J. JOHNSTON,
W. S. REID,
Commissioners.

Wellington, 27th May, 1880.

CHATTEL SECURITIES.

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- Title.** AN ACT to consolidate the Law relating to Securities affecting Personal Chattels. BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—
- Short Title.** 1. The Short Title of this Act is "The Chattel Securities Act, 1880," and it shall come into operation on the first day of *July*, one thousand eight hundred and *eighty*.
- Division into Parts.** 2. This Act is divided into Parts as follows:—
- PART I.—Bills of Sale.
PART II.—Leases and Mortgages of Live Stock.
PART III.—Liens on Crops.
PART IV.—Liens on Wool and Oil.
PART V.—Registration of Instruments and Miscellaneous Provisions.
- PART I.
BILLS OF SALE.
- Interpretation,
Part I.
1887, No. 23, sec. 3.** 3. In this Part of this Act, if not inconsistent with the context,—
- "Bill of sale" includes—
- (1.) Bills of sale;
 - (2.) Assignments;
 - (3.) Transfers;
 - (4.) Declarations of trust without transfer, and other assurances of personal chattels;
 - (5.) And also powers of attorney and licenses to take possession of personal chattels as security for any debt;
- but shall not include the following instruments:—
- (1.) Assignments for the benefit of the creditors of the person making the same;
 - (2.) Marriage settlements;
 - (3.) Transfers or assignments of any ship or vessel or any share thereof;
 - (4.) Transfers of goods in the ordinary course of business of any trade or calling;
 - (5.) Bills of sale of goods in foreign parts or at sea;
 - (6.) Bills of lading, warehouse-keeper's certificates, warrants or orders for the delivery of goods;
 - (7.) Or any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing, either by indorsement or delivery, the possessor of such document to transfer or receive the goods thereby represented, *or which is authorized to be registered under any other Part of this Act:*
- "Personal chattels" mean goods, furniture, fixtures, and other articles capable of complete transfer by delivery;
- but shall not include—
- (1.) Chattel interests in real estate;
 - (2.) 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;
 - (3.) Choses in action;
 - (4.) Any stock or produce upon any farms 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 giving the bill of sale so long as they shall remain in or upon any house, building, or place occupied by him, or as they shall be used by him in any place whatsoever, notwithstanding that formal possession thereof may have been taken by or given to any other person.

4. Every bill of sale made after the passing of this Act, and to which this Part of this Act applies, shall be registered in the manner hereinafter provided; otherwise such bill of sale shall—

Bills of sale to be void as against creditors and others unless registered. 1867, No. 23, sec. 4.

- (1.) As against all assignees of the estate of the person whose goods or any of them are comprised in such bill of sale under any laws now or hereafter to be in force relating to bankruptcy or insolvency, or
- (2.) Under any assignment for the benefit of the creditors of such person, and
- (3.) As against all sheriffs' 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 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 such bankruptcy or 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 period *within which such bill of sale is required to be registered*, 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.

PART II.

LEASES AND MORTGAGES OF STOCK.

(1.) Leases and Bailments of Stock.

5. In this Part of this Act, unless inconsistent with the context,—

Interpretation, Part II. 1869, No. 34, sec. 2.

"Stock," includes any sheep, cattle, and horses:

"Lessee" and "bailee" respectively includes executors, administrators, and assigns of such lessee or bailee:

"Station" includes any land specifically mentioned in any mortgage granted as hereinafter mentioned, and for the time being used by the grantor of any such mortgage for the purposes of depasturing stock:

1868, No. 11, sec. 5.

6. Every lease or contract of bailment of stock or chattels, whether with or without any land or buildings, may be registered in the manner hereinafter provided.

Leases and bailments of stock or chattels may be registered. 1869, No. 34, sec. 3.

The stock leased or bailed shall be branded or marked with some distinctive brand or mark other than the brand or mark of the lessee or bailee, and such brand or mark shall be specified in such lease or contract, or in some schedule or inventory thereto.

Stock to be branded. Ib.

The chattels affected by such lease or contract shall be particularly described therein, or in some schedule or inventory thereto.

Chattels to be described. Ib.

7. The stock or chattels comprised in any lease or contract of bailment so registered shall not be deemed to be in the order or disposition of the lessee or bailee by the consent or permission of the true owner thereof, nor shall he be deemed the reputed owner thereof within the meaning of any Act relating to

Stock or chattels not deemed to be in order or disposition of lessee or bailee in case of bankruptcy. Ib.

bankruptcy or insolvency, unless there be something in the lease or contract to the contrary thereof or repugnant thereto.

Increase included
in leases or bail-
ments.
1869, No. 34, sec. 4.

8. Every such registered lease or contract of bailment shall, unless the contrary be expressed therein, be deemed to include and exempt as aforesaid not only the stock specifically mentioned in such lease or contract, but also such part of the increase of such stock as shall by the provisions of the lease or contract, if any, be set apart as the share or property of the lessor or bailor :

Provided the same be branded or marked with the brand or mark of the lessor or bailor, to be specified in and by such lease or contract.

(2.) *Mortgages of Stock.*

Mortgages of stock
may be registered.
1868, No. 11, sec. 6.
Stock to be branded.

9. Every mortgage of stock which shall hereafter be made *bonâ fide* and for valuable consideration, may be registered in the manner hereinafter provided.

The stock therein mentioned shall be branded with some distinctive brand or brands specified in such mortgage or in some schedule or inventory thereto or referred to therein.

When mortgages
valid.
Ib., sec. 6.

10. Every such mortgage shall be valid in law whether the time for payment of the money secured by the mortgage shall have arrived or not, and notwithstanding the mortgaged stock shall not be delivered over to the mortgagee, but shall remain and continue in every respect in the possession, order, and disposition of the mortgagor, his executors or administrators, or any person claiming under him or them.

Possession by mort-
gagor deemed pos-
session by mortgagee.
Ib., sec. 6.

11. The possession of such mortgaged stock by the mortgagor, his executors or administrators, or any person claiming as aforesaid, shall be to all intents and purposes in law the possession of the mortgagee, his executors, administrators, or assigns, notwithstanding the subsequent bankruptcy of the mortgagor, his executors or administrators, or any person claiming as aforesaid, or any execution against his or their property.

No protection unless
mortgage executed
sixty days before
adjudication in
bankruptcy.
Ib., sec. 6.

12. No such mortgage shall be protected from the operation of any law now or hereafter to be in force relating to bankruptcy unless such mortgage shall have been executed at least sixty days before the date of any adjudication of bankruptcy against the mortgagor made pursuant to the bankruptcy laws for the time being in force in New Zealand, or unless the consideration thereof shall be an advance or loan made at the time of the execution of such mortgage.

Ib., sec. 6.

Any unpaid purchase-money for any station or the stock thereon, whether secured or not by any bill of exchange or promissory note, shall be deemed an advance or loan within the meaning of this section : Provided the mortgage for securing the same be executed within twenty-one days after the transfer of the station or stock to the purchaser thereof.

Security for further
advances.
Ib., sec. 7.

13. In any mortgage of stock, the parties thereto may agree that the same shall extend to and be a security for further advances beyond the advance or loan forming the *bonâ fide* consideration of such mortgage (to an extent not exceeding one-half of such original advance or loan) :

And the protection given by the provisions of this Act shall extend to such further advances, notwithstanding that the same shall have been made within sixty days before any such act of bankruptcy as aforesaid.

Mortgages of stock
to include increase
and all stock branded
as specified in the
mortgage.
Ib., sec. 8.

14. Every such registered mortgage of stock shall, unless the contrary be expressed therein, be deemed to include not only the stock specifically mentioned in such mortgage, and the increase of such stock, but also all stock branded with the brand or brands specified in the mortgage or in any schedule or inventory thereto or referred to therein, belonging to the mortgagor, his executors or administrators, which shall, after the execution of such mort-

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gage, at any time during the continuance of the security, be depasturing, or be at, in, or upon any station specifically mentioned in such mortgage :

And also shall be deemed to authorize the mortgagee, his executors, administrators, or assigns, or his or their agent, on the happening of any event on which any power of sale contained in the mortgage deed may be exercised, to enter upon such station and take possession of all the stock branded as aforesaid which shall or may for the time being be found at, upon, or about any such station, and which shall belong to the mortgagor, his executors or administrators, and the same stock, or such part thereof as shall be sufficient to satisfy the claim thereon, to dispose of under such power of sale.

Power to mortgagee to take possession.
1868, No. 11, sec. 8.

15. No future mortgage of stock shall, until, nor in any case unless registered in accordance with the provisions of this Act, within twenty-one days after the date thereof, be of any validity as against any purchaser *bond fide* and for valuable consideration.

Future mortgages unless registered to be invalid against purchaser.
Ib., sec. 9.

16. Any such purchaser shall not be affected by notice, actual or constructive, of any unregistered mortgage or of any contract therefor ; and the knowledge that any such mortgage or contract is in existence shall not of itself be imputed as fraud, and every second or subsequent mortgage of stock shall, if duly registered in accordance with the provisions of this Act within twenty-one days after the date thereof, become, upon such registration and upon satisfaction of all prior mortgages registered in accordance with this Act, a first mortgage, so as to vest the legal ownership of the stock and chattels comprised therein in such second or subsequent mortgagee.

Purchaser not to be affected by notice.
Ib., sec. 9.

17. The assignee, by deed of every such registered mortgage of stock, shall have and may exercise the same right, title, and interest, powers and authorities, as the original mortgagee would have had or might have exercised if no assignment had been made by him.

Rights of assignee on transfer of mortgage.
Ib., sec. 10.

18. In every case where the amount due upon any mortgage of stock shall be paid or satisfied to the person entitled to receive or give a discharge for the same, or his agent in that behalf, and a receipt in writing, signed by such person or his agent, shall be given acknowledging such payment or satisfaction of the mortgage, it shall be lawful for the mortgagor, or his executors, administrators, or assigns, to cause a copy of such receipt, duly verified by affidavit, to be registered in the office of the Registrar or Deputy Registrar at which the mortgage or copy shall have been filed.

Registration of receipt where mortgage paid or satisfied.
Ib., sec. 12.

The Registrar or Deputy Registrar at such office shall file and register such copy on production to that officer of the original receipt, and of the mortgage deed to which the same shall relate, or at his discretion on the production of the receipt alone on proof by statutory declaration to his satisfaction that the mortgage has been destroyed or cannot be found, or of some other ground for non-production.

Mode of registration.

In every case in which production shall be dispensed with, the declaration on which dispensation is obtained shall be filed in the office, and a memorandum of such production having been dispensed with, and referring by number to such declaration, shall be made upon the original receipt and verified copy and signed by the Registrar or Deputy Registrar at the time of registration, and from and after the registration of any such verified receipt such registered receipt shall operate as an extinction of the mortgage and as a reassignment of the mortgaged premises to the mortgagor, his executors, administrators, or assignees, and of the right and interest thereby created to all intents and purposes whatsoever :

Procedure when receipt cannot be produced.
Ib., sec. 12.

Saving of previous sales, &c., in certain cases.
1868, No. 11, sec. 12.

Grantors and assignees deemed bailees for purposes of "Larceny Act, 1867."
Ib., sec. 13.

Prerogative of Crown not affected.
Ib., sec. 4.

But without prejudice nevertheless to any previous sale or any assignment in pursuance thereof under such mortgage deed, and without prejudice to any second or subsequent mortgage affecting the same stock or any part thereof then duly filed, unless every party thereto and every assignee of such mortgagee shall by writing under his hand, at the foot of such receipt as aforesaid, have signified his assent to the registration of such receipt.

19. Every grantor of any mortgage of stock under this Act, and every assignee of such grantor who shall remain in possession of such stock, either before or after the time appointed for the repayment of the moneys secured by such mortgage, shall be deemed to be a bailee of the stock comprised in such mortgage within the provisions of "The Larceny Act, 1867."

20. Nothing in this Part of this Act shall be construed to affect in any way the rights and prerogative of the Crown as to any Crown lands described in any mortgage as the lands or stations where stock may be depasturing.

PART III.

LIENS ON CROPS.

Interpretation, Part III.
1871, No. 86, sec. 3.

Advances on agricultural produce may be secured.
Ib., sec. 4.

21. In this Part of this Act, if not inconsistent with the context, "agricultural produce" means European flax, hemp, hops, wheat, maize, barley, oats, and grass, whether for hay or for grain, and all cereal and root crops, and *Phormium tenax*.

22. Whenever any person shall *bond fide* do any of the following things,—

- (1.) Make any advance of money or goods to any holder of land ; or
- (2.) Make any present advance of money or goods to any holder of land, and agree, whether absolutely or conditionally, to make any future or further advances of money or goods to such holder of land ; or
- (3.) Give any negotiable instrument to any holder of land, or make, draw, accept, or indorse any such instrument at the request of any holder of land ; or
- (4.) Give to any holder of land, or at his request make, draw, accept, or indorse any negotiable instrument, and agree, whether absolutely or conditionally, to renew, or give, make, draw, accept, or indorse any future or other negotiable instrument,—

on the condition of receiving as security for the same the growing crop or crops of agricultural produce on such land, such security shall be in the form in the *First Schedule* hereto, or to the effect thereof.

23. Every such security shall be void as against any person other than the lienor, unless the same shall be registered as hereinafter provided.

Securities to be void unless registered.
Ib., sec. 6.

Provision in case of dishonor of negotiable instruments.
Ib., sec. 8.

24. Whenever any person shall have taken from any holder of land a security upon the terms mentioned in subsections three and four of section *twenty-two* of this Act, and shall fail to pay any negotiable instrument made, drawn, accepted, or indorsed by him in accordance with the said subsections, and the obligation to pay which shall rest on any such person, then the security so taken shall cease to operate in favour of the lienee, and the agricultural produce therein mentioned shall revert to and revest in the lienor as effectually as if such security had never been given.

Security to give preferable lien to holder.
Ib., sec. 9.

25. The person *bond fide* taking a security under and completed in accordance with the provisions of this Act shall have a preferable lien upon and be entitled to the whole of the agricultural produce therein mentioned, not only while growing, but afterwards when cut or separated from the soil, and whether stacked or stored on the land where raised or on or in any other place or premises.

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26. Possession of such agricultural produce by the lienor shall be to all intents and purposes in the law the possession of the person taking such security, but upon repayment of all principal, interest, and other moneys in such security specified or secured thereby, the possession of and property in the agricultural produce comprised therein shall revert to and revest in the lienor.

Possession by lienor to be deemed possession by lienee. 1871, No. 36, sec. 9.

27. No security duly made and completed under and in accordance with the provisions of this Part of this Act shall be extinguished or prejudicially affected by any subsequent sale, mortgage, or other incumbrance of or upon the land on which any such agricultural produce shall be, nor by the death or bankruptcy of the lienor.

No sale or mortgage subsequently given to affect security duly completed. *Ib.*, sec. 10.

28. If the lienor, his executors, administrators, or assigns, shall neglect or refuse at the time specified in the lien either—

Powers of lienee in case of default by lienor.

- (1.) To pay off the whole of any principal, interest, or other moneys specified or secured as aforesaid, with interest as agreed upon, or
- (2.) To give up the agricultural produce contained in any security to the lienee thereof in pursuance of any such security,—

Ib., sec. 11.

such lienee, his executors, administrators, or assigns, may enter into possession thereof, and may gather and carry away and sell the same, and may employ the proceeds in repaying himself the amount due and owing, or secured to him under his security, and all expenses incurred by him in connection therewith, and shall pay the balance to the lienor, his executors, administrators, or assigns.

29. No security made under the provisions of this Act shall prejudicially affect the rights of any landlord or mortgagee of any land whereon the agricultural produce comprised in such security shall be growing.

Securities not to prejudice landlord or mortgagee. *Ib.*, sec. 12.

30. No security granted under the provisions of this Act shall continue in force for a longer period than one year from the date thereof.

Securities not to continue for more than one year. *Ib.*, sec. 15.

31. Every lienor who, by sale or delivery of any agricultural produce affected by any security given by him, or by any other means, shall defraud the lienee of the same or any part thereof, and thus or by any means, directly or indirectly, defeat, invalidate, or impair his right of property in the same, shall be guilty of a misdemeanour, and shall be liable on conviction thereof to a fine not exceeding three times the amount of the loss thereby sustained, or to imprisonment with or without hard labour for any period not exceeding two years.

Penalty for fraud on lienee. *Ib.*, sec. 16.

PART IV.

LIENS ON WOOL AND OIL.

32. Where any person shall *bonâ fide* to, for, or on behalf of any proprietor of sheep or of a whaling station make, give, or do any of the things hereinafter mentioned (that is to say)—

Advances to proprietors of sheep or whaling stations may be secured.

- (1.) Make an advance of money or goods, or give any negotiable security to any such proprietor;
- (2.) Make any present advance of money or goods to any such proprietor, and agree, whether absolutely or conditionally, to make any future or further advances of money or goods to such proprietor;
- (3.) Give to any such proprietor, or at his request make, draw, accept, or indorse any negotiable instrument, and agree, whether absolutely or conditionally, to renew or give, make, draw, accept, or indorse any future or other negotiable instrument,

1858, No. 12, sec. 1, and 1871, No. 37, sec. 3.

on the condition of receiving as security for the same wool of the next ensuing clip, or oil or bone to be caught in the next ensuing whaling season (as the case

Form of security.

may require), such security shall be, as nearly as conveniently may be, in the form or to the effect set forth in the *Second* Schedule hereto.

Rights of person taking security.
1858, No. 12, sec. 1.

33. The person taking such security shall be entitled to the wool or to the oil and bone respectively in such security mentioned, and shall be deemed to all intents and purposes to be the owner thereof and in possession of the same.

Security to be void unless registered.
Ib., sec. 2.

34. Every such security shall become and be null and void unless the same shall be registered in the manner hereinafter provided.

Subsequent sales, &c., not to affect security.

35. No subsequent sale, mortgage, or other incumbrance of the sheep mentioned in any such security shall extinguish, suspend, impair, or prejudicially affect the same, or the rights of the owner of such security to the wool specified therein ;

Ib., sec. 7.

And if any such shall be taken in execution of any process, they shall be sold, and shall thereafter continue and be subject to such security and to the rights of the owner thereof.

If proprietor neglect to shear sheep, &c., owner of security may do so.

36. If the person who for the time being is the proprietor of the sheep specified in any such security refuses or neglects to shear the same and deliver the wool according to the terms of such security, the owner of such security may take possession of the sheep bearing such wool, for the purpose of washing and shearing the same :

Ib., sec. 8.

And the expense thereby incurred, and of the packing of the wool, and conveyance of the said wool to the place designated in such security, shall, if the security be for the repayment of an advance, be deemed to be part of the amount secured, and if the security be in respect of an absolute purchase, such expense shall be a debt due to the owner of the security by the proprietor of the sheep.

If proprietor of whaling station refuse to deliver oil and bone, owner of security may take possession thereof.

37. If the proprietor of any whaling station who shall have given any such security as aforesaid refuses or neglects to deliver the oil and bone therein specified according to the tenor thereof, the owner of the security may take possession of such oil and bone :

Ib., sec. 9.

And the expense thereby incurred, and of the conveyance thereof to the place designated in such security, shall, if the security be for the repayment of an advance, be deemed to be part of the amount secured, and if the security be in respect of an absolute purchase, such expense shall be a debt due to the owner of the security by the person who shall have given the same.

Securities may be transferred by indorsement.

38. Every such security as aforesaid shall be transferable by deed, and also may be transferred by indorsement in the form numbered II. in the *Second* Schedule hereto, or to the like effect, and every transferee shall have the same right, title, and interest as the person in whose name such security was originally taken.

Ib., sec. 10.

The provisions hereinafter contained as to registering instruments shall apply to every transfer of any such security.

Mortgagor of sheep may give security on ensuing clip of wool with consent of mortgagee.

39. It shall be lawful for the mortgagor of any sheep, with the consent in writing of the mortgagee, but not without such consent, to give a valid security as aforesaid on the next ensuing clip of the wool of such sheep.

Ib., sec. 11.
Frauds by person giving security or owner of sheep, wool, oil, &c.

40. Any person who shall give any such security as aforesaid, or who shall for the time being be the owner of any sheep or whaling station specified in any such security, and shall knowingly and wilfully sell or deliver or cause to be sold or delivered the wool or oil or bone respectively, or any part thereof, comprised in such security, without the written consent of the owner of the security, or

Ib., sec. 13.

Who shall, without such written consent as aforesaid, knowingly and wilfully sell or dispose of or cause to be sold or disposed of any sheep whereon any such wool is growing, or any whaling station mentioned in such security, with a view of depriving the owner of the security of such wool or such oil or bone respectively, or

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Who shall in any way, by any means whatsoever, directly or indirectly, knowingly and wilfully destroy, defeat, invalidate, or impair any such security, 1858, No. 12, sec. 13.

Shall forfeit and pay double the sum mentioned in such security as the consideration for the same, to be recovered by the owners thereof as liquidated damages, together with full costs of suit, in any Court of competent jurisdiction. Penalty. Ib., sec. 13.

41. Every person who shall knowingly and wilfully aid or abet any person whomsoever, directly or indirectly, to defeat, destroy, invalidate, or impair any such security as aforesaid, or who shall with any such intent knowingly and wilfully remove, receive, take, or carry away, or incite, aid, or abet any other person whomsoever to remove, receive, take, carry away, or deliver, any wool or any oil or bone comprised in any such security, contrary to the terms thereof, shall forfeit and pay double the sum mentioned in such security as the consideration of the same, to be recovered by the owner thereof as liquidated damages, together with full costs of suit, in any Court of competent jurisdiction: Persons assisting in frauds liable to pay double consideration stated in security. Ib., sec. 14.

Provided that the recovery of any sum of money under the last preceding section of this Act shall not affect the right to recover also under this section, nor the recovery of any sum of money under this section affect the right to recover under the last preceding section. Recovery under this provision not to affect rights under previous section. Ib.

PART V.

REGISTRATION OF INSTRUMENTS AND MISCELLANEOUS PROVISIONS.

(1.) *Registration of Instruments.*

42. In this Part of this Act, if not inconsistent with the context,— Interpretation, Part V.

“Instrument” means any instrument required or authorized to be registered under any Part of this Act, and includes every schedule or inventory thereto, or referred to in such instrument, and of every attestation of the execution thereof, and also a true copy of every such instrument, schedule, inventory, or attestation:

“Registrar” means a Registrar of the Supreme Court at the place where any act is required to be done by such Registrar, and includes a Deputy-Registrar (if any) at such place:

The filing of an instrument, with the affidavit required by this Act, is herein referred to as the registration of such instrument:

Terms and expressions used in previous Parts of this Act shall have the like meanings where used in this Part of the Act.

43. Every instrument authorized or required to be registered under any Part of this Act shall be registered by filing the same with the Registrar in the provincial district within which the personal chattels, crops, stock, sheep, or the whaling station respectively are situate at the time of the making or giving of such instrument: Mode and place of registering instruments.

But nothing herein shall repeal or affect the provisions of “The Otago Supreme Court Offices Act, 1871,” which shall be applied in carrying out this Act. Saving of “The Otago Supreme Court Offices Act, 1871.”

44. An affidavit of the time of giving or making such instrument, and a description of the residence of the person making or giving the same, and of every attesting witness to such instrument, shall be filed with such instrument. Affidavit of making of instrument to be filed with it.

45. Where a bill of sale is made by any person under or in execution of any process, then such affidavit shall contain a description of the residence and occupation of the person against whom such process shall have issued. Where a bill of sale made under process, affidavit to contain description of person against whom process issued.

46. The periods within which instruments authorized or required to be registered under this Act shall be so registered are— 1867, No. 23, sec. .

(1.) In the case of bills of sale, twenty-one days after the giving thereof; Periods for registration of various instruments.

- (2.) In the case of leases and bailments of stock, sixty days after the execution thereof;
- (3.) In the case of mortgages of stock, twenty-one days after the execution thereof by the mortgagor;
- (4.) In the case of liens on crops, seven days from the date thereof, if made within fifty miles of the place where the same is required to be registered, and if made more than fifty miles from such place, then within fourteen days from the date thereof;
- (5.) In the case of liens on wool and oil, sixty-one days after the execution thereof.

Registrar to keep book, and enter particulars of instruments registered.

47. The Registrar shall cause every instrument registered in his office under the provisions of this Act to be numbered, and shall keep a book in his said office in which shall be fairly inserted, when such instrument is registered, the name, residence, and occupation of the person by whom the instrument was made or given, together with the number affixed to the said instrument on the registration thereof, and all such particulars shall be entered according to the form given in the *Third* Schedule to this Act.

What particulars to be entered when bill of sale given under or in execution of process.
1867, No. 23, sec. 5.

48. Where any bill of sale has been made or given by any person under or in the execution of process, then the name, residence, and occupation of the person against whom such process was issued, and also the name of the person or persons to whom or in whose favour the said instrument was given, shall be inserted in the book to be kept as aforesaid.

Book may be searched.
Fee on search.
Ib., sec. 6.
Fee on filing instrument.
Ib., sec. 7.
Office copies to be given on payment.
Ib., sec. 8.

49. The said book and every instrument registered as aforesaid may be searched and viewed by all persons at all reasonable times upon payment for every search against one person of the fee or sum of two shillings.

50. There shall be paid to the Registrar upon the registration of every such instrument the fee of five shillings.

Defeasance or condition of instrument to be written on same paper, &c.
Ib., sec. 5.

51. Every person shall be entitled to have an office copy or an extract of every instrument registered as aforesaid, upon paying for the same at the rate of fourpence for every folio of seventy-two words contained in such copy or extract.

52. If such instrument 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 taken as part of such instrument, and shall be written on the same paper or parchment on which such instrument shall be written before the time when the same is filed.

Otherwise such instrument 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 instrument or a copy thereof had not been filed according to the provisions of this Act.

(2.) *Renewal of Registration.*

Renewal of registration.
1875, No. 40, sec. 3.

53. The registration of an instrument under this Act shall, during the subsistence of such instrument, be renewed in manner hereinafter mentioned once in every period of five years, commencing from the day of the registration.

The provisions affecting renewal of registration shall not apply to liens on crops or liens on wool or oil.

If not renewed, original registration to cease to be of any effect.
Ib., sec. 3.

54. If not so renewed, such registration shall cease to be of any effect at the expiration of any period of five years during which a renewal has not been made as hereby required, subject to this provision, that where a period of five years from the original registration of any instrument under any Act in force requiring the same to be registered or filed has expired before the first day of *January*, one thousand eight hundred and *eighty-one*, such instrument shall be as

valid to all intents and purposes as it would have been if this Act had not been passed if such registration be renewed in manner aforesaid before the *first* day of *January*, one thousand eight hundred and *eighty-one*.

55. The registration of an instrument shall be renewed by some person filing in the office of the Registrar where the original instrument has been registered in accordance with this Act, an affidavit stating the date of such instrument, and the names, residences, and occupations of the respective parties thereof as stated therein, and also the date of the registration of such instrument, and that the same is still subsisting.

Mode of renewal.
1875, No. 40, sec. 4.

56. Such Registrar shall thereupon number such affidavit, and re-number the original instrument registered in the said office with a similar number, and shall also mark upon the back of the registered instrument, as the case may be, and in his register of instruments, the date of the filing of such affidavit of renewal.

Duty of Registrar thereon.
Ib., sec. 4.

57. The like fee shall be payable on the filing of an affidavit renewing the registration of an instrument as is now payable under this Act on the registration of such instrument.

Fees on renewal.
Ib., sec. 5.

(3.) *Miscellaneous Provisions.*

58. It shall be lawful for the parties to any instrument of which a form is given in any of the Schedules hereto, to alter or vary such forms with respect to the provisions or conditions to be inserted therein as circumstances may require :

Forms may be altered.
1871, No. 36, sec. 5.

But nothing herein shall be construed to permit of the insertion of any provisions or conditions contrary to this Act, and the said forms shall in all cases be adhered to as much as possible.

59. Satisfaction may be entered in respect of any instrument registered under this Act by filing with the Registrar where the instrument is registered an affidavit of satisfaction by the person in whose favour the said instrument was made or given, or by his executors, administrators, or assigns, or by his or their lawfully-appointed attorney or attorneys :

Satisfaction may be entered in respect of a registered instrument.
1867, No. 23, sec. 9.

But the provisions herein contained as to satisfaction shall not affect or control the special provision in section eighteen of this Act.

60. Such Registrar shall thereupon mark upon the back of the registered instrument and in his register of instruments the date of filing of such affidavit of satisfaction, and in respect of such filing and marking there shall be paid to such Registrar a fee of five shillings :

Mode of entry of satisfaction.
Ib., sec. 9.

Any Judge of the Supreme Court may, upon application made to him for that purpose, order a memorandum of satisfaction to be written upon any instrument if it shall appear to him that the debt (if any) for which such instrument is given as security has been satisfied or discharged.

Powers of a Judge in certain cases.
Ib., sec. 9.

61. Any affidavit required by this Act may be sworn before any person for the time being authorized to take affidavits in the Supreme Court.

Before whom affidavits may be taken.
1875, No. 40, sec. 7.

62. All instruments heretofore duly filed or registered with any Registrar or Deputy-Registrar of the Supreme Court under the provisions of the Acts for the time being in force for that purpose shall be as valid and effectual as if the same were duly registered under this Act.

Saving of instruments already filed.
1867, No. 23, sec. 10.

63. The Acts mentioned in the *Fourth* Schedule to this Act are hereby repealed.

Repeals.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

LIEN ON CROPS.

MEMORANDUM of lien made this day of , in the year one thousand eight hundred and eighty , between A.B., of , in the Province of * (hereinafter called the "lienor"), of the one part, and C.D., of * (hereinafter called the "lienee"), of the other part: Witnesseth that in consideration of the advance of £ , paid to the lienor in money on the signing hereof [*or value of which the lienor admits to have received in goods from the lienee*], the lienor doth hereby, in pursuance of "The Chattel Securities Act, 1880," give to the lienee a preferable lien to the extent of the said advance, together with interest thereon at the rate of £ per centum per annum, on the crop [*or crops*] of [*Here state the nature of the produce*] this year growing and to grow on the land [*Here describe the land, or state where the crops on which security is given are stacked or stored*]. And it is hereby expressly agreed between the said parties that, unless on or before the day of , in the year one thousand eight hundred and eighty , the lienor pays to the lienee the sum of £ , with interest thereon at the rate aforesaid, the said crop [*or crops*] shall be gathered and made marketable by the lienor or at his expense, and shall be delivered at to the lienee or to his order, in which event he may sell the same [*Here state mode and conditions of sale, and state any particular condition or undertaking on the part of either party as to the power of sale or otherwise*]. And it is further agreed that out of the proceeds of any such sale the lienee may pay himself the said sum and interest, and all costs and expenses of such sale, and shall pay over to the lienor the balance (if any), or if there be a deficiency may recover the same against the lienor as a debt. In witness whereof the said parties to these presents have hereunto set their hands, the day and year firstly hereinbefore written.

A.B.

Witness to signature of lienor :

SECOND SCHEDULE.

FORM I.—FOR REPAYMENT OF ADVANCE.

Know all men by these presents, that in consideration of the sum of £ , which A.B. [*Abode and description*] admits to have received in money [*or goods or negotiable securities, or all or any of them, as the case may be*] from C.D., of [*Abode and description*], he, the said A.B., in pursuance of "The Chattel Securities Act, 1880," doth hereby give unto the said C.D. security on the wool of the ensuing clip to be shorn from the flock of sheep of the said A.B., consisting in number of or thereabouts, and now depastured at , in the Colony of New Zealand, under the charge of E.F., and marked , [*or on the oil and bone to be caught in the next ensuing whaling season, at the whaling station of the said C.D., situate at , and now under the charge of E.F.*]. And it is agreed by and between the said parties, A.B. and C.D., as follows : That—

* The full names, residences, and occupations of the parties must be inserted.

(1.) The said sheep shall be shorn by and at the expense of, &c. [*Here follow the arrangements between the parties as to delivery of wool, time of repayment of advance, interest, etc.*]

Dated the day of , 18 . C.D.

Witness :

NOTE.—If it is intended to make sale, and not give security only for the repayment of an advance, the form may be altered as follows :—

A.B., in pursuance of “The Chattel Securities Act, 1880,” doth hereby sell and grant unto the said C.D. all the wool [*or specifying quantity, etc.*].

FORM II.—TRANSFER BY INDORSEMENT.

Know all men by these presents that I, the within-named C.D., do hereby transfer unto G.H. the within-written security, and all my right, title, and interest under the same.

Dated the day of , 18 . C.D.

Witness :

THIRD SCHEDULE.

REGISTER BOOK.

No.	By whom given (or against whom process issued).			To whom given.	Nature and Date of Instrument.	Consi-deration.	Date of Registra-tion.	Transfer or Assign-ment.	Satisfaction entered.
	Name.	Resi-dence.	Occu-pation.						

FOURTH SCHEDULE.

- 1867, No. 23.—The Bills of Sale Act, 1867.
- 1868, No. 10.—The Bills of Sale Act, 1868.
- 1875, No. 40.—The Bills of Sale Act Amendment Act, 1875.
- 1869, No. 34.—The Bailments of Stock and Chattels Registration Act, 1869.
- 1868, No. 11.—The Mortgages of Stock Registration Act, 1868.
- 1871, No. 36.—The Agricultural Produce Lien Act, 1871.
- 1858, No. 12.—The Wool and Oil Securities Act, 1858.
- 1871, No. 37.—The Wool and Oil Securities Act Amendment Act, 1871.