

*Mortgages of Sheep &c.*

## No. XXVIII.

An Act to give to valid Mortgages of Sheep Cattle and Horses priority for a limited period according to the date of the Registration thereof and for other purposes therein mentioned. [13th November, 1845.]

MORTGAGES OF  
SHEEP &c.

**W**HEREAS it is expedient for the prevention of secret securities and of the frauds consequent thereon and will conduce greatly to the credit and relief of owners of sheep cattle and horses to make provision for the registration of valid mortgage securities upon the same Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That all mortgages of sheep cattle or horses and of their increase and progeny which shall hereafter be made *bonâ fide* for valuable consideration and which shall be otherwise valid in the law if duly registered within thirty days after the true date of the execution thereof in the office of the Registrar General of the Colony of New South Wales or in the office of the Deputy Registrar of the Court at Port Phillip according to the jurisdiction wherein the proprietor of the said mortgaged live stock shall be resident in the form in Schedule A appended to this Act shall have and be entitled in the law to priority over every unregistered mortgage of the same live stock or any part thereof and though such unregistered mortgage be made *bonâ fide* for valuable consideration and be of a prior or of the same date and execution as such registered mortgage.

Preamble.

Mortgages of sheep cattle or horses registered within thirty days after execution shall have priority over unregistered mortgages although of a prior or same date.

2. And be it enacted That before or at the expiration of the time limited for the payment of the principal sum secured by any such registered mortgage it shall be lawful for the parties thereto from time to time by indorsement on the back thereof or by any deed or memorandum in writing to extend as may be agreed upon between such parties the time limited for such payment provided such further extension of the time of payment be indorsed on the said registry within fifteen days of the date thereof in the form in Schedule B appended to this Act.

Time of payment may be extended by indorsement on the back of the mortgage or by separate deed &c.

3. And be it enacted That no such sheep and other live stock mentioned and described in any such registered mortgage or their increase and progeny or the wool of any such sheep shall be held or deemed to be within the scope or provisions of any bankrupt or insolvent law now in force or hereafter to be in force within the said Colony for the relief of bankrupt or insolvent debtors Provided that no mortgage of any such live stock shall protect the same from the operation of any such law unless such mortgage shall have been registered full sixty days before the date of the order for sequestration or unless the consideration thereof shall be an advance or loan *bonâ fide* made at the time of the execution of any such mortgage.

Such live stock not subject to operation of insolvent laws if mortgage be executed sixty days before sequestration or if consideration be a *bonâ fide* advance at the time of execution.

4. And be it enacted That the Registrar General or Deputy Registrar of the said Court shall keep a separate and distinct registry from year to year of the particulars of all such mortgages of sheep cattle and horses as aforesaid and shall be entitled to demand for every such registry thereof a fee of two shillings and sixpence and one shilling for each affidavit sworn before them or made in verification thereof and all persons shall have access to the said registry and may search the same during the usual hours of business on paying for each search a fee of one shilling.

Separate and distinct registry from year to year to be kept of mortgages of live stock.

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Engagements under  
7 Victoria No 3  
valid notwith-  
standing disallow-  
ance of Act.

5. And whereas an Act was passed in the seventh year of Her Majesty's reign intituled "*An Act to give a preferable Lien on Wool from season to season and to make Mortgages of Sheep Cattle and Horses valid without delivery to the Mortgagee*" and whereas the said Act may be annulled and disallowed by Her Majesty and it is expedient to remove doubt as to the validity of engagements legally made under that Act before the disallowance of the same can be known in the Colony Be it enacted That all mortgages of sheep horses or cattle and all liens on wool legally made under the said Act before the disallowance of the same shall be notified in the Colony shall during the continuance of this Act be valid and effectual in the law to all intents and purposes notwithstanding the disallowance of that Act.

Rights of the Crown  
to waste lands not  
affected.

6. And be it enacted That nothing in this Act contained shall be construed to affect in any way the rights or prerogative of the Crown as to any of the waste lands described in any such mortgages as the lands or stations whereon any such sheep horses or cattle may be depasturing.

Commencement and  
duration of Act.

7. And be it enacted That this Act shall commence and take effect from and after the passing thereof and shall thenceforth be and continue in force for two years.

## SCHEDULES REFERRED TO.

## A.

Date of Deed.	Name of Mortgagor.	Name of Mortgagee.	Consideration.	Numbers and description of mortgaged Sheep Cattle or Horses and the brand or other distinctive mark and Stations where the same are depasturing as also the name of the principal Superintendent or Overseer.
	Name of Witness or Witnesses.			

## B.

THE time limited for the payment of the principal sum above-mentioned is extended to the  
day of A.D.

Dated this

day of

A.D.

A. B. Mortgagor.

C. D. Mortgagee.