**STOCK MORTGAGES AND WOOL LIENS BILL 1924**

**House of Assembly, 21 October 1924, pages 1162-3**

Second reading

**The ATTORNEY-GENERAL (Hon. W. J. Denny)—**The object of this Bill is to give South Australia the benefit of legislation of the same up-to-date and complete character as is in force in the other States with regard to stock mortgages and on wool. At present the only way a stock mortgage can be effected is by means of a bill of sale under the Bills of Sale Act, 1886, while a wool lien may be taken under Act No. 4 of 1855-6, in so far as that Act was an agreement registered in the General Registry Office at Adelaide, under which the owner of sheep gives to some other person, usually a firm of stock agents or a bank, a mortgage over the next clip of wool shorn from his sheep. The owner agrees to shear the sheep and deliver the wool to the person advancing him the money on the security, and that person sells the wool, pays himself out of the proceeds, and hands the balance to the owner of the sheep from which the wool was shorn. These wool liens, to give them their technical title “preferably liens on wool,” are not often taken in South Australia, but they are taken sometimes, and in such cases afford a means whereby pastoralist, and others in need of financial accommodation obtain the money they require from stock agents and banks on the security of a wool lien, which they might not otherwise be able to obtain. Though there is no stock mortgage recognised by South Australian law at present, it is rather remarkable that Act No. 4 of 1855-6, which has just been referred to, provides for the taking of stock mortgages and their registration in the same way as bills of sale are registered, and as a matter of fact stock mortgages were taken and registered under this Act in South Australia from 1856 up till 1885. The provisions of Act No. 4 of 1855-6 relating to stock mortgages were then superseded by the general provisions of the Bills of Sale Act. Under that Act stock is treated in the same way as any other personal chattels, and a bill of sale may be taken over stock and registered in just the same way as over furniture or other movable property. There are, however, several drawbacks to the present system. One is with regard to stock acquired by the person giving the bill of sale after the execution of the document. The person lending the money is usually entitled by virtue of a covenant in the bill of sale to such future acquired stock, but there is no means by which he can obtain a legal security over such future acquired stock without going on the property of the owner and seizing the stock. This is highly inconvenient to both parties in many cases. In South Australia bills of sale over stock are sometimes taken by stock agents to protect themselves when they allow clients to purchase stock on credit, and the stock agents do not desire to discourage their clients from selling stock subject to a bill of sale or from buying other stock in addition to, or in substitution for, such stock if the stock subsequently acquired is made subject to their security. At present the only way in which this can be done iss to send out a representative to the client’s farm or station who will seize the after acquired stock in the name of the stock firm whom he represents. This is humiliating for the client, and imposes an unnecessary hardship on the stock firm concerned. Another defect of the presentsystem is that the ordinary bill of sale contemplates an antecedent debt or a contemporaneous advance, with further advances up to a named limit. This system is not appropriate to what is usually done by stock firms which take security over stock. In such cases their client exactly in the same position as if he had an overdraft from a bank. He has, perhaps, a debt of £30,000 one day, and a week later he effectsa large sale of stock and reduces his liability to £500. A little later perhaps he buys £10,000 worth of fresh stock, and later sells this stock in large or small lots. The point is that it is necessary for the security to exist unimpaired whatever his temporary liability may be, and he is not prejudiced by this position because he only pays interest on his debit balance on each day as in the case of a customer having an overdraft from a bank. There is also this to be said against the present system of bills of sale over stock, that a bill of sale is often the last resort of a borrower whose financial affairs are becoming involved, whereas a stock mortgage is a legitimate security and something which, in the other States, is quite a usual feature of the business of a pastoralist. The character of the transaction is quite different in the case of the giving of a stock mortgage and the giving of a bill of sale over furniture or other chattels. The giving of a stock mortgage is as much a normal mode for a pastoralist to transact his business as the giving of a first mortgage over his land by a farmer or shopkeeper, and it does not involve the implication of financial stringency which is associated with the giving of the ordinary bill of sale. There are other minor disadvantages associated with the present system which are of less importance, and which will be referred to when the Bill gets into Committee. The Bill has been drafted on the lines of the legislation in force in the three eastern States and in New Zealand. In Queensland provision for stock mortgage and wool liens is contained in the Mercantile Act of 1867, in New South Wales in the Liens on Crops and Wool and Stock Mortgages Act of 1898, and in Victoria in the Instruments Act of 1915. In New Zealand stock mortgages and liens on wool are dealt with in the Chattels Transfer Act of 1908. Recourse has been had to all these Acts in drafting the present Bill, and I think it may justly be claimed that if this Bill is passed South Australia will have an Act as comprehensible, and as flexible, and as much calculated to assist the pastoral community as any of the Acts in the other States. When it is remembered that the existence of a complete and flexible system for the taking of effective security on stock and wool is an important means of financing the man on the land, it will be seen that such legislation is very valuable. The general scheme of the Bill is to adopt the past provisions in force in the other States with regard to the form and contents of stock mortgages and liens on wool, and the effect of registration of these securities. These will be explained in detail when the Bill goes into Committee. There are a group of clauses in the Bill which make consequential amendments of the Bills of Sale Act, and also repeal the Act No. 4 of 1855-6, to which I have referred. These consequential amendments of the Bills of Sale Act are directed to removing stock and wool on the sheep’s back outside the scope of the Bills of Sale Act. The reason is that when this Bill is passed all registerable securities taken over stock and wool on the sheep’s back will be taken by way of stock mortgage and wool lien respectively under the new Act. I am told that the passing of this Bill will be of considerable advantage to traders, in addition to proving a great boon to people who own stock and are not able to get a sufficient advance from the bank.

The Hon. Sir Henry Barwell—Will the agreement require registration ?

The ATTOBNEY-GENERAL—Not in such a way as to injure the credit of a man as is the case with the registration of a bill of sale. I move the second reading.

Mr. McLACHLAN secured the adjournment of the debate until October 22.