

No. 8.—1871.

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*An Ordinance to amend in certain respects the Law of Mortgage
and Hypothec.*

Preamble.

WHEREAS it is expedient to amend in certain respects the Law of Mortgage and Hypothec in this Colony:--**IT IS THEREFORE ENACTED BY THE GOVERNOR OF CEYLON**, with the advice and consent of the Legislative Council thereof:—

General mortgages abolished.

1. **NO** conventional general mortgage, executed after this Ordinance shall come into operation, shall be valid and effectual, so as thereby to give the mortgagee any lien, charge, claim or priority over or in respect of any property, moveable or immoveable.

2. NO pledge or conventional hypothecation or bill of sale of any moveable property, effected after this Ordinance shall come into operation, shall be valid and effectual, so as thereby to give the pledgee, mortgagee, or transferee any lien, charge, claim, right or priority over, to, or in respect of such property,

No. 8.—1871.

Mortgage of moveable property to be effected by actual delivery.

UNLESS the said property shall have been actually delivered over into the custody and possession of the pledgee, mortgagee, or transferee, or some person on behalf of such pledgee, mortgagee or transferee, and shall continue and remain ostensibly and *bonâ fide* in such custody and possession from the date of such pledge, hypothecation or bill of sale, until the time when the pledgee, mortgagee or transferee shall make his claim at law to, over, or in respect of such property; or,

UNLESS such pledge, hypothecation or bill of sale shall have been created by writing signed by the person effecting the same or by some person thereto lawfully authorized by him, and unless such writing shall within seven days (exclusive of Sundays and public holidays) from the date thereof have been duly registered in the office of the Registrar of Lands for the District in which such property shall be at the time of such pledge, hypothecation or bill of sale, or in the office of the said Registrar for each of such Districts, when such property is at the time of such pledge, hypothecation or transfer, in more than one District.

Or by deed duly registered.

3. NO transfer or assignment, made after this Ordinance shall come into operation, of any pledge, conventional hypothecation or bill of sale of any moveable property shall be valid and effectual, so as thereby to give the transferee or assignee any lien, charge, claim, right or priority over, to, or in respect of such property, unless such transfer or assignment shall be in writing, signed by the person transferring the same, or by some person thereto lawfully authorized by him, and shall within seven days (exclusive of Sundays and holidays) from the date thereof have been registered in manner aforesaid.

Transfer or assignment of hypothecations to be also by deed, and registered.

4. NO pledge, conventional hypothecation or bill of sale of any moveable property heretofore effected by any writing, and no transfer or assignment thereof, shall be valid and effectual, so as thereby to give the pledgee, mortgagee, transferee or assignee any lien, charge, claim, right or priority over, to, or in respect of such property, unless such pledge, hypothecation, bill of sale, transfer or assignment shall be duly registered as aforesaid within three months from the date of this Ordinance coming into operation, or shall have been heretofore registered in pursuance of the provisions of the Lands Registration Ordinances, No. 8 of 1863 and No. 3 of 1865.

Existing pledges, &c., to be also duly registered.

5. IT shall be the duty of the Registrar of Lands to prepare and keep special and proper lists and indexes of all writings required by this Ordinance to be registered; and all such lists, indexes and the writings to which they refer shall, at all reasonable hours, upon a written application in that behalf, be open to the inspection and perusal of all persons who may desire to inspect and peruse the same; and such persons shall be entitled to demand and receive copies of any entries in such register, or extracts from any such entries. And such Registrar shall, immediately after the registration of any writing required by this Ordinance to be registered, deliver to the party effecting the same a certificate thereof, signed by such Registrar, and shall also (if required) make and sign an endorsement thereof on the writing produced for registration. And every such certificate, application, copy and extract as aforesaid shall be subject to the same Stamp duties as if the writing registered was a mortgage or transfer of immoveable property, registered under the Land Registration Ordinances, No. 8 of 1863 and No. 3 of 1865, or any other Ordinance hereafter to be passed respecting the registration of deeds relating to immoveable property.

Registrars to keep lists of such writings; inspection, extracts, certificates, &c.

6. THE words "Bill of Sale" shall include bills of sale, assignments, transfers, declarations of trust without transfer, and other assurances of moveable property, and also powers of attorney and authorities or licenses to take possession of personal property as security for any debt.

Meaning of "Bill of Sale."

7. NOTHING in this Ordinance shall be taken to apply to hypothecations of any ship or vessel, or any share thereof; nor to hypothecations of goods in any foreign parts or at sea; nor to property represented by bills of lading, dock warrants, warehouse-keepers' certificates, warrants or orders for the delivery of goods, or any

Proviso as to mortgage of ships, &c.

No. 8.—1871.

other documents used in the ordinary course of business as proof of the possession or control of goods, and authorizing or purporting to authorize either by endorsement or by delivery the possessor of such document to transfer or receive goods thereby represented ; nor to any 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; nor to choses in action ; nor to any crops or produce growing or to be grown on any lands or plantations.

Repeal of 66th section of Ordinance 16 of 1865.

8. THE 66th section of the Ordinance No. 16 of 1865, entitled "*An Ordinance to provide for the establishment and regulation of a Police Force in this Island,*" is hereby repealed.

Commencement of Ordinance.

9. THIS Ordinance shall come into operation at the date of the passing thereof.

Passed in Council, the Fourteenth day of January, One thousand Eight hundred and Seventy-one.

JAMES SWAN,
Clerk to the Council.

Assented to by His Excellency the Governor, the Fourteenth day of January, One thousand Eight hundred and Seventy-one, and published by his Order.

HENRY T. IRVING,
Colonial Secretary.
