

New Zealand.

## MERCANTILE LAW.

1908, No. 117.

AN ACT to consolidate certain Enactments of the General Assembly relating to Trade and Commerce.

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. (1.) The Short Title of this Act is "The Mercantile Law Act, 1908."

Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the Schedule hereto.

(3.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

Application of Parts II, III, and IV.  
1889, No. 11, sec. 2

(4.) In order to remove any doubt as to the applicability of the provisions of Parts II, III, and IV of this Act to and in respect of navigable lakes and inland navigable waters of New Zealand, it is hereby declared that those provisions extend and apply to all parts of New Zealand so far as the same are applicable.

(5.) This Act is divided into Parts, as follows:—

PART I.—Mercantile Agents. (Sections 2 to 12.)

PART II.—Bills of Lading. (Sections 13 to 16.)

PART III.—Carriers. (Sections 17 to 20.)

PART IV.—Delivery of Goods and Lien for Freight. (Sections 21 to 31.)

PART V.—Unpaid Vendors of Warehoused Goods. (Sections 32 to 43.)

PART VI.—Book-purchasers Protection. (Section 44.)

## PART I.

## MERCANTILE AGENTS.

2. (1.) In this Part of this Act, if not inconsistent with the context,— Interpretation.  
 “Document of title” includes any bill of lading, dock warrant, 1890, No. 11, sec. 3  
 warehouse-keeper’s certificate, and warrant or order for the  
 delivery of goods, and any other document used in the ordi-  
 nary course of business as proof of the possession or control  
 of goods, or authorising or purporting to authorise, either  
 by indorsement or by delivery, the possessor of the docu-  
 ment to transfer or receive goods thereby represented :

“Goods” includes wares and merchandise :

“Mercantile agent” means an agent having in the customary  
 course of his business as such agent authority either to sell  
 goods, or to consign goods for the purpose of sale, or to buy  
 goods, or to raise money on the security of goods :

“Pledge” includes any contract pledging or giving a lien or  
 security on goods, whether in consideration of an original  
 advance, or of any further or continuing advance, or of any  
 pecuniary liability.

(2.) A person shall be deemed to be in possession of goods, or of  
 the documents of title to goods, where the goods or documents are  
 in his actual custody, or are held by any other person subject to his  
 control or for him or on his behalf.

*Dispositions by Mercantile Agents.*

3. (1.) Where a mercantile agent is, with the consent of the owner, Powers of mercantile  
 agent with respect to  
 disposition of goods.  
 Ibid, sec. 4  
 in possession of goods or of the documents of title to goods, any sale,  
 pledge, or other disposition of the goods made by him when acting in  
 the ordinary course of business of a mercantile agent shall, subject to the  
 provisions of this Part of this Act, be as valid as if he were expressly  
 authorised by the owner of the goods to make the same; provided  
 that the person taking under the disposition acts in good faith, and has  
 not at the time of the disposition notice that the person making the  
 disposition has not authority to make the same.

(2.) Where a mercantile agent has, with the consent of the owner,  
 been in possession of goods or of the documents of title to goods, any  
 sale, pledge, or other disposition which would have been valid if the con-  
 sent had continued shall be valid notwithstanding the determination of  
 the consent, provided that the person taking under the disposition has not  
 at the time thereof notice that the consent has been determined.

(3.) Where a mercantile agent has obtained possession of any docu-  
 ments of title to goods by reason of his being or having been, with the  
 consent of the owner, in possession of the goods represented thereby,  
 or of any other documents of title to the goods, his possession of the  
 first-mentioned documents shall, for the purposes of this Part of this Act,  
 be deemed to be with the consent of the owner.

(4.) For the purposes of this Part of this Act the consent of the  
 owner shall be presumed in the absence of evidence to the contrary.

4. A pledge of the documents of title to goods shall be deemed to Effect of pledges of  
 documents of title.  
 Ibid, sec. 5  
 be a pledge of the goods.

Pledge for antecedent debt.  
1890, No. 11, sec. 6

5. Where a mercantile agent pledges goods as security for a debt or liability due from the pledgor to the pledgee before the time of the pledge, the pledgee shall acquire no further right to the goods than could have been enforced by the pledgor at the time of the pledge.

Rights acquired by exchange of goods or documents.  
Ibid, sec. 7

6. The consideration necessary for the validity of a sale, pledge, or other disposition of goods in pursuance of this Part of this Act may be either a payment in cash, or the delivery or transfer of other goods, or of a document of title to goods, or of a negotiable security, or any other valuable consideration; but where goods are pledged by a mercantile agent in consideration of the delivery or transfer of other goods, or of a document of title to goods, or of a negotiable security, the pledgee shall acquire no right or interest in the goods so pledged in excess of the value of the goods, documents, or security when so delivered or transferred in exchange.

Agreements through clerks, &c.  
Ibid, sec. 8

7. For the purposes of this Part of this Act an agreement made with a mercantile agent through a clerk or other person authorised in the ordinary course of business to make contracts of sale or pledge on his behalf shall be deemed to be an agreement with the agent.

Provisions as to consignors and consignees.  
Ibid, sec. 9

8. (1.) Where the owner of goods has given possession of the goods to another person for the purpose of consignment or sale, or has shipped the goods in the name of another person, and the consignee of the goods has not had notice that such person is not the owner of the goods, the consignee shall, in respect of advances made to or for the use of such person, have the same lien on the goods as if such person were the owner of the goods, and may transfer any such lien to another person.

(2.) Nothing in this section shall limit or affect the validity of any sale, pledge, or disposition by a mercantile agent.

Effect of transfer of document of title to goods on vendor's lien, and right of stoppage *in transitu*.  
Ibid, sec. 12

9. Where a document of title to goods has been lawfully transferred to a person as a buyer or owner of the goods, and that person transfers the document to a person who takes the document in good faith and for valuable consideration, the last-mentioned transfer shall have the same effect for defeating any vendor's lien or right of stoppage *in transitu* as the transfer of a bill of lading has for defeating the right of stoppage *in transitu*:

Provided that this section shall be construed subject to section forty-eight of "The Sale of Goods Act, 1908."

#### Miscellaneous.

Mode of transferring documents.  
Ibid, sec. 13

10. For the purposes of this Part of this Act the transfer of a document may be by indorsement, or where the document is by custom or by its express terms transferable by delivery, or makes the goods deliverable to the bearer, then by delivery.

Saving of rights of true owner.  
Ibid, sec. 14

11. Nothing in this Part of this Act shall—

- (a.) Authorise a mercantile agent to exceed or depart from his authority as between himself and his principal, or exempt him from any liability, civil or criminal, for so doing; or
- (b.) Prevent the owner of goods from recovering the goods from a mercantile agent or his trustee in bankruptcy at any time before the sale or pledge thereof; or
- (c.) Prevent the owner of goods pledged by a mercantile agent from having the right to redeem the goods at any time before the sale thereof, on satisfying the claim for which the

goods were pledged and paying to the mercantile agent, if by him required, any money in respect of which such agent would by law be entitled to retain the goods or the documents of title thereto, or any of them, by way of lien as against the owner, or from recovering from any person with whom the goods have been pledged any balance of money remaining in his hands as the produce of the sale of the goods after deducting the amount of his lien; or

- (d.) Prevent the owner of goods sold by a mercantile agent from recovering from the buyer the price agreed to be paid for the same, or any part of that price, subject to any right of set-off on the part of the buyer against such agent.

12. The provisions of this Part of this Act shall be construed in amplification and not in derogation of the powers exercisable by a mercantile agent independently of this Part of this Act.

Saving for common-law powers of mercantile agent.  
1890, No. 11, sec. 15

## PART II.

### BILLS OF LADING.

13. Every consignee of goods named in a bill of lading, and every indorsee of a bill of lading, to whom the property in the goods therein mentioned passes on or by reason of such consignment or indorsement, shall have transferred to and vested in him all rights of action, and be subject to the same liabilities, in respect of such goods as if the contract contained in the bill of lading had been made with himself.

Rights of action and liabilities in respect of goods under bills of lading to vest in consignees and indorsees.  
1890, No. 12, sec. 21

14. Nothing herein shall prejudice or affect any right of stoppage *in transitu*, or any right to claim freight against the original shipper or owner, or any liability of the consignee or indorsee by reason or in consequence of his being such consignee or indorsee, or of his receipt of the goods by reason or in consequence of such consignment or indorsement.

Right of stoppage *in transitu*, or claims for freight, not affected.  
Ibid, sec. 22

15. Every bill of lading in the hands of a consignee or indorsee for valuable consideration, representing goods to have been shipped on board a vessel, shall be conclusive evidence of such shipment as against the master or other person signing the same, notwithstanding that such goods or some part thereof may not have been so shipped, unless such holder of the bill of lading has had actual notice at the time of receiving the same that the goods were not in fact laden on board.

Bill of lading in hands of consignee, &c., conclusive evidence as against master, &c.  
Ibid, sec. 23

16. The master or other person so signing any bill of lading may exonerate himself in respect of such misrepresentation by showing that it was caused without any default on his part, and wholly by the fraud of the shipper or of the holder, or some person under whom the holder claims.

When master may be exonerated from liability.  
Ibid, sec. 24

## PART III.

### CARRIERS.

17. Every common carrier for hire by land or by sea between any ports in New Zealand is liable for the loss of or injury done to any horses, cattle, or other animals, or to any articles, goods, or things, in the receiving, forwarding, or delivering thereof occasioned by the neglect

Carriers liable for neglect or default in carriage of goods, notwithstanding notice to contrary.  
Ibid, sec. 25

or default of such carrier or his servants, notwithstanding any notice, condition, declaration, or contract given, made, or entered into by such carrier contrary thereto, or in any wise limiting such liability, in the same manner and to the same extent as if no such notice, condition, declaration, or contract had been given, made, or entered into.

Exception of conditions for carrying adjudged by a Court or Judge to be reasonable.  
1880, No. 12, sec. 26

18. Nothing herein shall be construed to prevent a carrier from making such conditions with respect to receiving, forwarding, and delivering any of the said animals, articles, goods, or things as are adjudged by the Court before whom any question relating thereto is tried to be just and reasonable.

Special contracts not binding unless signed.  
Ibid, sec. 27

19. No special contract between a carrier and any other party respecting the receiving, forwarding, or delivering of any animals, articles, goods, or things as aforesaid shall be binding on or affect any such party unless the same is signed by him or by the person delivering such animals, articles, goods, or things respectively for carriage.

Carriers not liable in certain cases beyond limited amount unless value declared and extra payment made.  
Ibid, sec. 23

20. (1.) No greater damages shall be recovered for the loss of or injury to any of such animals beyond the sums hereinafter mentioned, that is to say,—

- (a.) For any horse, fifty pounds :
- (b.) Neat cattle, per head, fifteen pounds :
- (c.) Sheep or pigs, per head, two pounds,—

unless the person sending or delivering the same to such carrier, at the time of delivery, declares them to be respectively of higher value than as above mentioned, in which case it shall be lawful for such carrier to receive, by way of compensation for the increased risk and care thereby occasioned, a reasonable percentage on the excess of the value so declared above the respective sums so limited as aforesaid, and which shall be paid in addition to the ordinary rate of charge.

Proof of value to be on person claiming compensation.

(2.) The proof of the value of such animals, articles, goods, and things, and the amount of injury done thereto, shall in all cases lie upon the person claiming compensation for such loss or injury.

#### PART IV.

##### DELIVERY OF GOODS, AND LIEN FOR FREIGHT.

Interpretation.  
Ibid, sec. 29

21. In this Part of this Act, if not inconsistent with the context,—

- “Entry” means the entry required by the Customs laws to be made for the landing or discharge of goods from an importing ship :
- “Goods” includes every description of wares and merchandise :
- “Owner of goods” includes every person who is for the time being entitled, either as owner or agent for the owner, to the possession of the goods, subject in the case of a lien to such lien :
- “Report” means the report required by the Customs laws to be made by the master of any importing ship :
- “Shipowner” includes the master of the ship and every other person authorised to act as agent for the owner or entitled to receive the freight, demurrage, or other charges payable in respect of such ship :

“ Warehouse ” includes all warehouses, buildings, and premises in which goods when landed from ships may be lawfully placed :

“ Warehouse-owner ” means the occupier of any warehouse as hereinbefore defined :

“ Wharf ” includes all wharves, quays, docks, and premises in or upon which any goods when landed from ships may be lawfully placed :

“ Wharf-owner ” means the occupier of any wharf as hereinbefore defined.

22. Where the owner of goods imported from foreign parts into New Zealand fails to make entry thereof, or, having made entry thereof, to land the same or take delivery thereof, and to proceed therewith with all convenient speed by the times severally hereinafter mentioned, the shipowner may make entry of and land or unship the said goods at the times, in the manner, and subject to the conditions following, that is to say :—

Power to shipowner to enter and land goods in default of entry and landing by owner of goods.

1880, No. 13, sec. 30

- (a.) If a time for the delivery of the goods is expressed in the charter-party, bill of lading, or agreement, then at any time after the time so expressed :
- (b.) If no time for the delivery of the goods is expressed in the charter-party, bill of lading, or agreement, then at any time after the expiration of seventy-two hours, exclusive of a Sunday or holiday, after the report of the ship.
- (c.) If any wharf or warehouse is named in the charter-party, bill of lading, or agreement as the wharf or warehouse where the goods are to be placed, and if they can be conveniently there received, the shipowner in landing them by virtue of this enactment shall cause them to be placed on such wharf or in such warehouse.
- (d.) In other cases the shipowner, in landing goods by virtue of this enactment, shall place them on or in some wharf or warehouse on or in which goods of a like nature are usually placed, such wharf or warehouse being, if the goods are dutiable, a wharf or warehouse duly approved by the Minister of Customs for the landing of dutiable goods.
- (e.) If at any time before the goods are landed or unshipped the owner of the goods is ready and offers to land or take delivery of the same, he shall be allowed so to do, and his entry shall in such case be preferred to any entry made by the shipowner.
- (f.) If any goods are for the purpose of convenience in assorting the same landed at the wharf where the ship is discharged, and the owner of the goods at the time of such landing has made entry and is ready and offers to take delivery thereof and to convey the same to some other wharf or warehouse, such goods shall be assorted at landing ; and shall, if demanded, be delivered to the owner thereof within twenty-four hours after assortment, and the expense of and consequent on such landing and assortment shall be borne by the shipowner.
- (g.) If at any time before the goods are landed or unshipped the owner thereof has made entry for the landing and ware-

housing thereof at any particular wharf or warehouse other than that at which the ship is discharging, and has offered and been ready to take delivery thereof, and the shipowner has failed to make such delivery, and has also failed at the time of such offer to give the owner of the goods correct information of the time at which such goods can be delivered, then the shipowner shall, before landing or unshipping such goods under the power hereby given to him, give to the owner of the goods or of such wharf or warehouse as last aforesaid twenty-four hours' notice in writing of his readiness to deliver the goods, and shall, if he lands or unships the same without such notice, do so at his own risk and expense.

If when goods are landed the shipowner gives notice for that purpose the lien for freight is to continue.

1880, No. 12, sec. 31

Wharf or warehouse owner to retain goods till lien discharged.

Lien to be discharged on proof of payment.

Ibid, sec. 32

Lien to be discharged on deposit with warehouse-owner.

Ibid, sec. 33

Warehouse-owner may at the end of fifteen days, if no notice is given, pay deposit to shipowner.

Ibid, sec. 34

Course to be taken if notice to retain is given.

Ibid, sec. 35

23. (1.) If at any time when any goods are landed from any ship and placed in the custody of any person as a wharf or warehouse owner the shipowner gives to the wharf or warehouse owner notice in writing that the goods are to remain subject to a lien for freight or other charges payable to the shipowner to an amount to be mentioned in such notice, the goods so landed shall in the hands of the wharf or warehouse owner continue liable to the same lien, if any, for such charges as they were subject to before the landing thereof.

(2.) The wharf or warehouse owner receiving such goods shall retain them until the lien is discharged as hereinafter mentioned, and if he fails so to do shall make good to the shipowner any loss thereby occasioned to him.

(3.) On production to the wharf or warehouse owner of a receipt for the amount claimed as due, and delivery to the wharf or warehouse owner of a copy thereof or of a release of freight from the shipowner, the said lien shall be discharged.

24. The owner of the goods may deposit with the wharf or warehouse owner a sum of money equal in amount to the sum so claimed as aforesaid by the shipowner, and thereupon the lien shall be discharged, but without prejudice to any other remedy which the shipowner may have for the recovery of the freight.

25. If such deposit is made with the wharf or warehouse owner, and the person making the same does not within fifteen days after making it give to the wharf or warehouse owner notice in writing to retain it, stating in such notice the sum, if any, which he admits to be payable to the shipowner, or that he does not admit any sum to be so payable, the wharf or warehouse owner may at the expiration of such fifteen days pay the sum so deposited over to the shipowner, and shall by such payment be discharged from all liability in respect thereof.

26. If such deposit is made with the wharf or warehouse owner, and the person making the same does within fifteen days after making it give to the wharf or warehouse owner notice as aforesaid,—

(a.) The wharf or warehouse owner shall immediately apprise the shipowner of such notice, and shall pay or tender to him out of the sum deposited the sum admitted by such notice to be payable, and shall retain the balance or, if no sum is admitted to be payable, the whole of the sum deposited for thirty days from the date of the said notice.

(b.) At the expiration of such thirty days, unless legal proceedings have in the meantime been instituted by the shipowner

against the owner of the goods to recover the said balance or sum, or otherwise for the settlement of any disputes between them concerning such freight or other charges as aforesaid, and notice in writing of such proceedings has been served on him, the wharf or warehouse owner shall pay the said balance or sum over to the owner of the goods, and shall by such payment be discharged from all liability in respect thereof.

27. If the lien is not discharged and no deposit is made as hereinbefore mentioned, the wharf or warehouse owner may, and if required by the shipowner shall, at the expiry of ninety days from the time when the goods were placed in his custody, or, if the goods are of a perishable nature, at such earlier period as may be fixed by Lloyd's Agent or any surveyor to be appointed by such wharf or warehouse owner, sell by public auction either for home use or exportation the said goods, or so much thereof as may be necessary to satisfy the charges hereinafter mentioned.

After ninety days warehouse-owner may sell goods by public auction.  
1880, No. 12, sec. 36

28. (1.) Before making such sale the wharf or warehouse owner shall give notice thereof by advertisement in one newspaper circulating in the neighbourhood, a copy whereof shall be kept posted up in some conspicuous part of the said wharf or warehouse.

Notices of sale to be given.  
Ibid, sec. 37

(2.) If the address of the owner of the goods has been stated on the manifest of the cargo, or on any of the documents in the possession of the wharf or warehouse owner, or is otherwise known to him, such wharf or warehouse owner shall give notice of the sale to the owner of the goods by letter sent by post.

(3.) But the title of a *bona fide* purchaser of such goods shall not be invalidated by reason of the omission to send notice as hereinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.

Title not invalidated by omission to give notice.

29. In every case of any such sale as aforesaid the wharf or warehouse owner shall apply the moneys received from the sale in the following order:—

Moneys arising from sale, how to be applied.  
Ibid, sec. 38

(a.) If the goods are sold for home use, in payment of any Customs or excise duties owing in respect thereof;

(b.) In payment of the expenses of the sale;

(c.) In the absence of any agreement between the wharf or warehouse owner and the shipowner concerning the priority of their respective charges, in payment of the rent, rates, and other charges due to the wharf or warehouse owner in respect of the said goods;

(d.) In payment of the amount claimed by the shipowner as due for freight or other charges in respect of the said goods;

(e.) But in case of any agreement between the wharf or warehouse owner and the shipowner concerning the priority of their respective charges, then such charges shall have priority according to the terms of such agreement; and

(f.) The surplus, if any, shall be paid to the owner of the goods.

30. Where goods are placed in the custody of a wharf or warehouse owner under the authority of this Part of this Act, the said owner shall be entitled to rent in respect of the same, and shall also have power from time to time at the expense of the owner of the goods to do all such

Warehouse-owner's rent and expenses.  
Ibid, sec. 39



reasonable acts as in the judgment of the said wharf or warehouse owner are necessary for the proper custody and preservation of such goods, and shall have a lien thereon for the said rent and expenses.

Warehouse-owners  
protection.  
1880, No. 12, sec. 40

31. Nothing in this Part of this Act shall compel any wharf or warehouse owner to take charge of any goods which he would not be liable to take charge of if this Part of this Act had not passed, nor shall he be bound to see to the validity of any lien claimed by any shipowner under this Part of this Act.

## PART V.

### UNPAID VENDORS OF WAREHOUSED GOODS.

Interpretation.  
*Ibid*, sec. 85

32. In this Part of this Act, if not inconsistent with the context,—
- “ Bonded warehouse ” means a building approved and appointed by the Minister of Customs for the warehousing of goods without payment of duty on the first entry thereof :
  - “ Free warehouse ” means a building licensed by the Minister of Customs to be used exclusively for the storage of any goods not liable to the payment of Customs duties, or whereon such duties have been paid previously to storage :
  - “ Goods ” includes wares and merchandise of every description :
  - “ Pledge ” means any deposit and delivery of warrants or certificates with intent that the holder thereof may dispose of the goods to which such warrants or certificates relate in the event of the terms of the deposit not being fulfilled by the persons making the same :
  - “ Pledgee ” means the person in whose favour the deposit of the warrants or certificates is made :
  - “ Sale ” means any absolute disposition of goods, whether for payment to be made in cash or upon credit :
  - “ Subpurchaser ” means any person purchasing from or under the person to whom the original bonder or storer of goods in a bonded or free warehouse sold the same and delivered the warrants or certificates relating thereto :
  - “ Warehouse-keeper ” means the person having the management of any bonded or free warehouse, whether the warehouseman himself or a person employed by him :
  - “ Warehouse-keeper’s book ” means the book wherein the warehouse-keeper enters a list of all goods received in and delivered out of the warehouse managed by him :
  - “ Warehouseman ” means the person for whose immediate benefit and under whose control the storage of goods in a bonded or free warehouse is carried on :
  - “ Warrants ” or “ certificates ” means any receipt or undertaking issued by or on behalf of the warehouseman, and signed by him or on his behalf, acknowledging the receipt in a specified warehouse of goods to be held on behalf of a person named and described, giving the particulars of the goods stored, the marks or brands (if any) thereon, the terms upon which the goods are stored, and containing an undertaking on the part of the warehouseman to deliver the same to the indorsee, holder, or bearer of the warrant or certificate.

33. In all cases where warrants or certificates for goods liable to the payment of Customs duties are issued, importing a receipt of such goods by or on behalf of any bonded warehouseman and an undertaking to deliver the same to the holder of the warrants or certificates on presentation and demand, and on payment of the duties, rents, and charges lawfully demandable, and such warrants or certificates are delivered over on a sale of the goods by the person to whom the said warrants or certificates are issued by or on behalf of the warehouseman, the rights, legal and equitable, of such person, as an unpaid vendor, to stop the actual delivery of the goods comprised in and affected by such warrants or certificates shall be deemed at an end when such warrants or certificates are delivered over *bona fide* and for value, on either a sale or pledge of the said goods by any person purchasing from the original bonder thereof.

Unpaid vendor's lien determined on delivery of bond warrants to *bona fide* holder for value. 1880, No. 12, sec. 86

34. On a sale or pledge of goods stored in any bonded warehouse, the possession of warrants or certificates importing a receipt and undertaking to deliver as aforesaid shall be deemed *prima facie* evidence of the ownership of the holder of the said warrants or certificates in the goods and merchandise affected thereby.

Possession of warrants *prima facie* evidence of ownership. *Ibid.*, sec. 87

35. Any holder of a warrant or certificate importing the obligations aforesaid shall be entitled, on request and on compliance with the terms of the contract implied by such warrants or certificates between the warehouseman and the original bonder of the goods, to have delivery thereof, or to have his name entered upon the books of the warehouse-keeper as the owner of the said goods.

Holder of warrant entitled to delivery. *Ibid.*, sec. 88

36. Save in the event of fraud being proved in the procurement of the entry of the name of the holder of the certificates or warrants in the warehouse-keeper's books, the person whose name is so entered shall be conclusively deemed the then owner in possession of the said goods, subject to the provisions hereinafter contained.

Registered holder of warrant deemed to be owner. *Ibid.*, sec. 89

37. In the event of any transfer being entered in the books of the warehouse-keeper, and the then owner of bonded goods delivers over the warrants or certificates relating to or affecting the same to any other person on a sale or pledge of the said goods, and such warrants or certificates are afterwards delivered over *bona fide* and for value to any sub-purchaser or pledgee by the person receiving the same from the owner whose name is entered as aforesaid, the rights legal and equitable of the said owner as an unpaid vendor to stop the actual delivery of the goods comprised in and affected by such warrants or certificates shall be deemed at an end as from the time of the *bona fide* delivery of the warrants or certificates to the first subpurchaser or pledgee for value.

The registered transferee of warrant to lose his right of lien if warrant afterwards delivered over *bona fide* and for value. *Ibid.*, sec. 90

38. Where goods are stored in any free warehouse, and warrants or certificates, importing on behalf of the warehouseman a receipt of the goods and an undertaking to deliver the same on presentation and demand and on payment of the rents and charges lawfully demandable, are delivered to and accepted by the person originally warehousing such goods, the respective rights and liabilities of the warehouseman and warehouse-keeper, and of the persons to whom the said warrants or certificates were originally issued, or are afterwards delivered or redelivered upon a resale or pledge *bona fide* and for value of the goods, or in whose name the ownership may be transferred in the books of the warehouse-keeper, or who afterwards acquires possession *bona fide* and for value of

Warrants of free goods put on the same footing as bond warrants. *Ibid.*, sec. 91

the said warrants or certificates, shall be the same in all respects as is hereinbefore provided with regard to goods liable to the payment of Customs duties and stored in a bonded warehouse.

Provisions same in respect of bonded and free warehouses. 1880, No. 12, sec. 92

Vendor's lien not prejudiced save as against *bona fide* subpurchaser or pledgee for value. *Ibid.*, sec. 93

Goods not to be transferred in books of warehouseman except on production of warrant. *Ibid.*, sec. 94

Special contracts restraining negotiability of warrants permitted. *Ibid.*, sec. 95

Terms of contract to appear on face of warrant. *Ibid.*, sec. 96

Warehouseman's lien not prejudiced by sale or transfer of goods. *Ibid.*, sec. 97

39. The provisions herein relative to the rights of or incident to the ownership of goods stored in a bonded warehouse shall be as applicable to the ownership of goods stored in a free warehouse as if such provisions had been respectively repeated and expressly applied thereto.

40. Nothing herein shall in any way prejudice the rights of an unpaid vendor of goods to stop delivery thereof until payment of the price payable to him whenever such rights may be lawfully exercised without detriment or injury to any subpurchaser or pledgee *bona fide* and for value, or to the rights of any trustee in bankruptcy claiming under the purchaser from the unpaid vendor.

41. (1.) No entry shall be made in the books of any warehouseman or keeper of any bonded or free warehouse transferring the ownership or possession of any goods, unless the person applying for such entry to be made produces and delivers up the warrants or certificates originally issued.

(2.) Thereupon the warehouseman or the keeper of his warehouse may cancel the said warrants or certificates and issue others in lieu thereof, and such new warrants or certificates may in like manner be cancelled and others issued in substitution thereof.

42. (1.) Notwithstanding anything herein, the person originally storing goods in any bonded or free warehouse, and the warehouseman thereof, may enter into a special contract restraining the negotiability of the warrants or certificates issued in respect of the said goods, or providing some special method of transfer of the property in and possession of such goods.

(2.) In every such case the terms of such special contract shall be incorporated in and made to appear upon the face of the said warrants or certificates, so that the holder thereof may have his attention expressly directed thereto.

43. No transfer of the ownership or possession of the goods stored in any bonded or free warehouse shall in any way prejudicially affect the lien or rights of the warehouseman in respect of any rent or charges previously incurred or become payable on account of the goods the ownership or possession whereof may be so transferred as aforesaid.

## PART VI.

### BOOK-PURCHASERS PROTECTION.

When agreement for purchase of books to be void. 1891, No. 21, sec. 2

44. (1.) Every agreement for the purchase of any book or part of a book, or of engravings, lithographs, or pictures, or of any other like matter, whether illustrated or not (herein termed "printed matter"), shall be absolutely void in every case where such printed matter is not to be delivered to the purchaser at the date of such agreement in a completed form, and so as to embrace the whole of the volumes or numbers of the printed matter, unless the purchaser of such printed matter first signs an agreement on a form in which, in red capital letters not less than great primer, the following words and figures are printed—namely, "The total liability of the purchaser under this agreement is [*Inserting*

*the amount in similar printed letters and also in printed figures of like size],” and unless such form is printed or written in black, wholly or partly, across and subsequent to the printing of such red letters and figures.*

(2.) The vendor of such printed matter, or his agent, shall at the time of the signing of the agreement aforesaid also hand over to the purchaser a duplicate of the agreement, having printed on it in addition the words “Duplicate to be kept by purchaser,” and the name and address in full of the vendor; and the vendor shall not be entitled to recover under such agreement unless he produces an acknowledgment by the purchaser that he has received such duplicate of the agreement as aforesaid.

Vendor to give duplicate of agreement to purchaser.  
1891, No. 21, sec. 3

(3.) In any action in any Court on any contract for the purchase of such printed matter the Court may determine the value of the said printed matter, proof of which shall be on the vendor.

Ibid, sec. 4

### SCHEDULE.

#### ENACTMENTS CONSOLIDATED.

1880, No. 12.—“The Mercantile Law Act, 1880”: Except sections 4, 41, 43, 45 to 51, 59 to 77, and 81 to 83.

1889, No. 11.—“The Mercantile Law Act Amendment Act, 1889.”

1890, No. 11.—“The Mercantile Agents Act, 1890”: Except sections 10 and 11.

1891, No. 21.—“The Book-purchasers Protection Act, 1891.”