

Delivery of Goods and Lien for Freight.

ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Interpretation of terms. 3. Power to shipowner to enter and land goods in default of entry and landing by owner of goods. 4. If when goods are landed the shipowner gives notice for that purpose the lien for freight is to continue. 5. Lien to be discharged on proof of payment. 6. Lien to be discharged on deposit with warehouse owner. | <ol style="list-style-type: none"> 7. Warehouse owner may at the end of fifteen days if no notice is given pay deposit to shipowner. 8. Course to be taken if notice to retain is given. 9. After ninety days warehouse owner may sell goods by public auction. 10. Notices of sale to be given. 11. Moneys arising from sale how to be applied. 12. Warehouse owner's rent and expenses. 13. Warehouse owner's protection. |
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A BILL INTITULED

AN ACT to facilitate the Delivery of Goods carried by Title.
 Sea to Ports in the Colony and to give to Ship-
 owners a Lien for Freight.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows—

1. The Short Title of this Act shall be "The Delivery of Goods Short Title.
 5 and Lien for Freight Act 1869."

2. The following terms used in this Act shall have the respective Interpretation
of terms.
 meanings hereby assigned to them if not inconsistent with the context or subject matter that is to say—

10 The word "report" shall mean the report required by the "Report."
 Customs Laws to be made by the master of any importing
 ship.

 The word "entry" shall mean the entry required by the "Entry."
 Customs Laws to be made for the landing or discharge of
 goods from an importing ship.

15 The word "goods" shall include every description of wares "Goods."
 and merchandise.

"Wharf."	The word "wharf" shall include all wharves quays docks and premises in or upon which any goods when landed from ships may be lawfully placed.	
"Warehouse."	The word "warehouse" shall include all warehouses buildings and premises in which goods when landed from ships may be lawfully placed.	5
"Wharf owner."	The expression "wharf owner" shall mean the occupier of any wharf as hereinbefore defined.	
"Warehouse owner."	The expression "warehouse owner" shall mean the occupier of any warehouse as hereinbefore defined.	10
"Shipowner."	The word "shipowner" shall include the master of the ship and every other person authorized to act as agent for the owner or entitled to receive the freight demurrage or other charges payable in respect of such ship.	
"Owner of goods."	The expression "owner of goods" shall include 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 if any to such lien.	15

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

3. Where the owner of any goods imported in any ship 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—

- (1.) 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. 25
- (2.) 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. 30
- (3.) 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. 35
- (4.) In other cases the shipowner in landing goods by virtue of this enactment shall place them in or on 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 Commissioner of Customs for the landing of dutiable goods. 40
- (5.) 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 which may have been made by the shipowner. 45
- (6.) 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. 55

(7.) If at any time before the goods are landed or unshipped the owner thereof has made entry for the landing and warehousing 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.

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

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

5. Upon the 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.

Lien to be discharged on proof of payment.

6. 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.

Lien to be discharged on deposit with warehouse owner.

7. If such deposit as aforesaid 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 as the case may be 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.

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

8. If such deposit as aforesaid 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 such notice in writing as aforesaid 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 if any admitted by such notice to be payable and shall retain the remainder or 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 and 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 which may have arisen 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

Course to be taken if notice to retain is given.

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.

After ninety days warehouse owner may sell goods by public auction.

9. 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 expiration 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 he in his discretion thinks fit 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. 5 10

Notices of sale to be given.

10. Before making such sale the wharf or warehouse owner shall give notice thereof by advertisement in one newspaper circulating in the neighbourhood and also if the address of the owner of the goods has been stated on the manifest of the cargo or on any of the documents which have come into the possession of the wharf or warehouse owner or is otherwise known to him give notice of the sale to the owner of the goods by letter sent by the post but the title of a *bonâ 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. 15 20

Moneys arising from sale how to be applied.

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

1. If the goods are sold for home use in payment of any Customs or Excise Duties owing in respect thereof. 25
2. In payment of the expenses of the sale.
3. 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. 30
4. In payment of the amount claimed by the shipowner as due for freight or other charges in respect of the said goods.
5. 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 35 40

Warehouse owner's rent and expenses.

and the surplus if any shall be paid to the owner of the goods. 40
12. Whenever goods are placed in the custody of a wharf or warehouse owner under the authority of this Act the said wharf or warehouse 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 reasonable acts as in the judgment of the said wharf or warehouse owner are necessary for the proper custody and preservation of the said goods and shall have a lien on the said goods for the said rent and expenses. 45

Warehouse owner's protection.

13. Nothing in this Act contained 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 Act had not passed nor shall he be bound to see to the validity of any lien claimed by any shipowner under this Act. 50