

## ORDINANCE No. 12 OF 1916.

AN ORDINANCE relating to Pledges of Goods and Documents of Title thereof and to certain Mercantile Agents.

A.D. 1916.

[12th August, 1916.]

**B**E it enacted by the Governor of British Guiana, with the advice and consent of the Court of Policy thereof, as follows:—

1. This Ordinance may be cited as the Pledges of Goods Ordinance, 1916. Short title.

2. For the purposes of this Ordinance— Definitions.

(1) The expression "mercantile agent" shall mean a mercantile 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:

(2) The expression "document of title" shall have the same meaning as the term "document of title to goods" defined in the Sale of Goods Ordinance, 1913<sup>(1)</sup>:

(3) The expression "pledge" shall include 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:

(4) The expression "hanker" means "banker" as defined by the Bank Notes Ordinance, 1914.<sup>(2)</sup>

3. 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. Possession of goods.

*Disposition by Mercantile Agents.*

4.—(1) Where a mercantile agent is, with the consent of the owner, 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 Ordinance, be as valid as if he were expressly authorized 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. Powers of mercantile agent with respect to disposition of goods.

(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 consent had continued, shall be valid notwithstanding the determination of the consent, provided that the person

<sup>1</sup> See Ordinance No. 26 of 1913.

<sup>2</sup> See Ordinance No. 1 of 1914 under "Banks."

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 documents 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 document shall, for the purposes of this Ordinance be deemed to be with the consent of the owner.

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

5. A pledge of the documents of title to goods shall be deemed to be a pledge of the goods.

6. Where a mercantile agent pledges goods as security for a debt or liability due from the pledger 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 pledger at the time of the pledge.

7. The consideration necessary for the validity of a sale, pledge, or other disposition, of goods, in pursuance of this Ordinance, 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 of goods, or of a negotiable security, the pledge 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.

8. For the purposes of this Ordinance an agreement made with a mercantile agent through a clerk or other person authorized 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.

9.—(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.

*Bankers Advances on Produce and Other Goods.*

10. Subject to the provisions of any Ordinance, charter or Articles of Association, a banker—

(1) May lend money to any wholesale purchaser or shipper of or dealer in products of agriculture, the forest, quarry and mine, or the sea, lakes and rivers, or to any wholesale purchaser or shipper of or dealer in live stock or dead stock, or the products thereof, upon the security of such products, or of such live stock or dead stock or the products thereof;

Effect of pledges of documents of title.

Pledge for antecedent debt.

Rights acquired by exchange of goods or documents.

Agreements through clerks, etc.

Provisions as to consignors and consignees.

Bankers loans upon goods.

- (2) May lend money to a planter, farmer, or other cultivator upon the security of his manufactured sugar or upon any paddy or threshed grain grown upon the plantation, farm or other place of cultivation;
- (3) May lend money to any person engaged in business as a wholesale manufacturer of any goods, wares and merchandise, upon the security of the goods, wares and merchandise manufactured by him, or procured for such manufacture.

11.—(1) If, with the consent of the banker, the products, goods, wares and merchandise, live stock or dead stock or the products thereof, sugar or grain upon the security of which money has been loaned under the authority of section ten are removed and other products, goods, wares and merchandise, live stock or dead stock or the products thereof of substantially the same character are respectively substituted therefor, then to the extent of the value of the product, goods, wares and merchandise, or live stock or dead stock or the products thereof so removed, the products, goods, wares and merchandise, live stock or dead stock or the products thereof, sugar or grain so substituted shall be covered by such security as if originally covered thereby; but failure to obtain the consent of the banker to any such substitution shall not affect the validity of the security either as respects any products, goods, wares and merchandise, or live stock or dead stock or the products thereof actually substituted as aforesaid or in any other particular.

Substitution  
of goods.

(2) Any such security, as mentioned in the foregoing provisions of this section, may be given by the owner of the said products, goods, wares and merchandise, stock or products thereof, sugar or grain.

(3) The banker shall, by virtue of such security, acquire the same rights and powers in respect of the products, goods, wares and merchandise, stock or products thereof, sugar or grain covered thereby as if it had acquired the same by virtue of a bill of lading or warehouse keeper's certificate; provided, however, that the wages, salaries or other remuneration of persons employed by any wholesale purchaser, shipper or dealer, by any wholesale manufacturer, or by any farmer in connection with any of the several wholesale businesses referred to or in connection with the farm, owing in respect of a period not exceeding three months, shall be a charge upon the property covered by the said security in priority to the claim of the banker thereunder, and such wages, salaries or other remuneration shall be paid by the banker if the banker takes possession or in any way disposes of the said security or of the products, goods, wares and merchandise, stock or products thereof, sugar or grain covered thereby.

12. If goods, wares and merchandise are manufactured or produced from the goods, wares and merchandise, or any of them, included in or covered by any security given under the last preceding section, while so covered, a banker holding such warehouse receipts or security shall hold or continue to hold such goods, wares and merchandise, during the process and after the completion of such manufacture or production, with the same right and title, and for the same purposes and upon the same conditions, as it held or could have held the original goods, wares and merchandise.

Goods manu-  
factured from  
articles  
pledged.

Prior claim  
of banker  
over unpaid  
vendor.

13. All advances made on the security of any bill of lading or warehouse keeper's certificate, or of any security given under section eleven shall give to the banker making the advances a claim for the payment of the advances on the products or stock, goods, wares and merchandise therein mentioned, or into which they have been converted, prior to and by preference over the claim of any unpaid vendor: Provided that such preference shall not be given over the claim of any unpaid vendor who had a lien upon the products or stock, goods, wares and merchandise at the time of the acquisition by the banker of such warehouse receipt, bill of lading, or security, unless the same was acquired without knowledge on the part of the bank of such lien.

*Supplemental.*

Mode of  
transferring  
documents

14. For the purposes of this Ordinance the transfer of a document may be by endorsement, 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.

Savings for  
rights of true  
owner.

15.—(1) Nothing in this Ordinance shall authorize an 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.

(2) Nothing in this Ordinance shall prevent the owner of goods from recovering the goods from an agent or his trustee in insolvency at any time before the sale or pledge thereof, or shall prevent the owner of goods pledged by an agent from having the right to redeem the goods at any time before the sale thereof or satisfying the claim for which the goods were pledged, and paying to the agent, if by him required, any money in respect of which the 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.

(3) Nothing in this Ordinance shall prevent the owner of goods sold by an 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 the agent.

Saving for  
common law  
powers of  
agent.

16. The provisions of this Ordinance shall be construed in amplification and not in derogation of the powers exercisable by an agent independently of this Ordinance.

Security  
under  
Section 10.

17. Security under section ten hereof may be taken in the form set out in the Schedule hereto or to the like effect.

SCHEDULE.

In consideration of an advance of dollars made by the Bank to A.B., for which the said Bank holds the following bills or notes: (*describe the bills or notes, if any*), or, in consideration of the discounting of the following bills or notes by the Bank for A.B.; (*describe the notes or bills*), the products of agriculture, the forest, quarry and mine (*or, the sea, lakes and rivers, or, the live stock or dead stock, or the products thereof, or*

the goods, wares and merchandise, *or*, the grain (*as the case may be*) mentioned below are hereby assigned to the said Bank as security for the payment on or before the            day of            of the said advance, together with interest thereon at the rate of            per cent. per annum from the            day of            (*or*, of the said bills or notes, or renewals thereof, or substitution therefor, and interest thereon, *or as the case may be*).

This security is given under the provisions of section ten of the Pledges of Goods Ordinance, 1915, and is subject to the provisions of the said Ordinance.

The said products of agriculture, the forest, quarry and mine (*or*, the sea, lakes and rivers, *or*, the live stock or dead stock, *or* the products thereof, *or*, the goods, wares and merchandise, *or*, the grain (*as the case may be*), are now owned by           , and are now in the possession of            and are free from any mortgage, lien or charge thereon (*or as the case may be*), and are in (*place or places where the goods are*), and are the following            (*description of property assigned*).

Dated, etc.

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