

CHAPTER 66.

PLEDGE OF GOODS.

[No. XII of 1926.]

[12th August, 1916.]

- Short title. 1. This Ordinance may be cited as the Pledge of Goods Ordinance.
- Interpretation. 2. For the purposes of this Ordinance—
 “mercantile agent” means a mercantile agent having, in the customary course of his business as that agent, authority either to sell or to consign for the purpose of sale, or to buy, or to raise money on the security of goods;
 “document of title” has the same meaning as the term “document of title to goods” defined in the Sale of Goods Ordinance;
- Chapter 65. “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;
- Chapter 51. “banker” means “banker” as defined by the Bank Notes Ordinance.
- Possession of goods. 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.

DISPOSITION BY MERCANTILE AGENTS.

Powers of mercantile agent with respect to disposition of goods.

4.—(1) Where a mercantile agent is, with the consent of the owner, in possession of goods or of the documents of title thereto, 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 authorised by the owner of the goods to make the disposition, provided the person taking under the disposition acts in good faith and has not at the time of the disposition notice that the person making it has not authority to do so.

(2) Where a mercantile agent has, with the consent of the owner, been in possession of goods or of the documents of title thereto, 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 the person taking under the disposition has not at the time thereof notice of that determination.

(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 thereto, 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.

Effect of
pledges of
documents
of title.

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.

Pledge for
antecedent
debt.

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 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.

Ri ghts
acquired by
exchange of
goods or
documents.

8. For the purposes of this Ordinance 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.

Agreements
through
authorised
persons.

Provisions
as to con-
signors and
consignees.

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 that person is not the owner of the goods, the consignee shall, in respect of advances made to or for the use of that person, have the same lien on the goods as if that person were the owner of the goods, and may transfer the 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.

Bankers
loans upon
goods.

10. Subject to the provisions of any Ordinance, charter, or articles of association, a banker may lend money—

- (a) 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 those products or of that live stock or dead stock or the products thereof;
- (b) to a planter, farmer, or other cultivator, upon the security of his manufactured sugar, or upon any padi or threshed grain, grown upon the plantation, farm, or other place of cultivation;
- (c) 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 the manufacture.

Substitution
of goods :

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 the last preceding section, are removed and other products, goods, wares and merchandise, live stock or dead stock or the products thereof, of substantially the same character 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 the security as if originally covered thereby; but failure to obtain the consent of the banker to the 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.

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

(3) The banker shall, by virtue of the 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 he had acquired them by virtue of a bill of lading or warehouse keeper's certificate:

Provided 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 security in priority to the claim of the banker thereunder, and those wages, salaries, or other remuneration shall be paid by the banker if he takes possession or in any way disposes of the security or of the products, goods, wares and merchandise, stock or products thereof, sugar or grain, covered thereby. Proviso.

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 preceding section, while so covered, a banker holding the warehouse receipts or security shall hold or continue to hold those goods, wares and merchandise, during the process and after the completion of the manufacture or production, with the same right and title, and for the same purposes and upon the same conditions, as he held or could have held the original goods, wares and merchandise. Goods manufactured from articles pledged.

13. All advances made on the security of any bill of lading or warehouse keeper's certificate, or on any security given under section eleven of this Ordinance, shall give to the banker making the advances a claim for the payment of Prior claim of banker over unpaid vendor:

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 :

Proviso.

Provided that the 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 the warehouse receipt, bill of lading, or security, unless it was acquired without knowledge on the part of the bank of the lien.

SUPPLEMENTAL.

Mode of transferring documents.

14. For the purposes of this Ordinance 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 for rights of true owner.

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

- (a) authorise 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; or
- (b) prevent the owner of goods from recovering the goods from an agent or his assignee 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; or
- (c) prevent the owner of goods sold by an agent from recovering from the buyer the price agreed to be paid for them, or any part of that price, subject to any right of set off on the part of the buyer against the 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.

Saving for common law powers of agent.

17. Security under section ten of this Ordinance may be taken in the form set out in the schedule hereto or to the like effect.

Security under section ten. Schedule.

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 centum per annum from the _____ day of _____ *(or, of the said bills or notes, or renewals thereof, or substitution therefor, and interest thereon, (as the case may be).*

This security is given under the provisions of section ten of the Pledge of Goods Ordinance, and is subject to the provisions of that 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 this _____ day of _____, 19 _____.