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VICTORIÆ REGINÆ.

A.D. 1885.

No. 339.

An Act relating to Lien on Goods for Freight.

[Assented to, September 30th, 1885.]

WHEREAS it is desirable to amend the law relating to lien on goods for freight—Be it Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows: Preamble.

1. In the construction of this Act the following terms shall have the respective meanings hereby assigned to them, if not inconsistent with the context or subject-matter, that is to say— Interpretation of terms.

The word “ goods ” shall include every description of cargo, wares, and merchandise: “ Goods.”

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: “ Wharf.”

The word “ warehouse ” shall include all warehouses, buildings, and premises in which goods when landed from ships may be lawfully placed: “ Warehouse.”

The words “ free store ” shall mean any store not being a Customs bonded warehouse: “ Free store.”

The expression “ wharfowner ” shall mean the occupier of any wharf: “ Wharfowner.”

The expression “ warehouseowner ” shall mean the occupier of any warehouse: “ Warehouseowner.”

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“Shipowner.”

The word “shipowner” shall include 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:

“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.

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

2. If 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: Provided that such lien shall not prevail against the *bonâ fide* holder for value of any dock warrant, holding order, or warehouse certificate lawfully issued and without notice of such lien after the receipt of the goods by the wharf owner or warehouse-keeper to whom the said goods have been delivered.

Proviso.

Goods may be placed in a free store.

3. Nothing in this Act shall prevent the owner or the agent of the owner of any goods placed in a bonded warehouse for security of duty, and which are subject to a lien for freight or other charge payable to the shipowner, from paying the said duties, and removing the goods to the free store of the warehouseowner, where they shall still remain subject to the lien aforesaid.

Lien to be discharged on proof of payment.

4. 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 shipowner's lien shall be discharged.

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

5. If the lien is not discharged before the expiration of ninety days from the time when the goods were landed, or, if the goods are of a perishable nature or live animals, before the expiration of such shorter period as the shipowner may in his discretion think fit, the shipowner may sell the said goods by public auction, or such part thereof as he may think necessary to satisfy the charges hereinafter mentioned: Provided always, that if legal proceedings have been commenced between the owner of the goods and the “shipowner,” a Judge, or the Special Magistrate of the Court in which such proceedings have been commenced, may order that the sale be stayed until such period as he may think just, such order to be obtained on summons.

Proviso.

6. Before

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6. Before making such sale the shipowner shall give notice thereof by advertisement in one newspaper circulating in the neighborhood, in the *Government Gazette*, and at least in one daily paper published in Adelaide, 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 shipowner, wharf or warehouse owner, or is otherwise known to them, give notice of the sale to the owner of the goods by letter sent by the post; but the title of a *boná 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.

Notice of sale to be given.

7. In every case of any such sale as aforesaid, the shipowner shall apply the moneys received from the sale as follows, and in the following order—

Moneys arising from sale, how to be applied.

- i. In payment of any duties of Customs paid in respect thereof:
- ii. In payment of the expenses of the sale:
- iii. 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:
- iv. In payment of the amount claimed by the shipowner as due for freight or other charges in respect of the said goods:
- v. 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 the surplus, if any, shall be paid to the Collector of Customs, to be held by him for and on account of the owner of the goods.

8. 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.

Warehouseowner's rent and expenses.

9. 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.

Warehouseowner's protection.

10. This

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Short title.

10. This Act may be cited for all purposes as “The Lien for Freight Act, 1885.”

In the name and on behalf of Her Majesty, I hereby assent to
this Bill.

WM. C. F. ROBINSON, Governor.