

WESTERN AUSTRALIA

ANNO QUADRAGESIMO SECUNDO

VICTORIÆ REGINÆ

No. 3

An Act to amend the Factors Acts.

[Assented to 3rd July, 1878.]

Imp. Act, 40 & 41  
Vic, c. 39

WHEREAS doubts have arisen with respect to the true meaning of certain provisions of the Factors Acts, and it is expedient to remove such doubts, and otherwise to amend the said Acts, for the better security of persons buying or making advances on goods, or documents of title to goods, in the usual and ordinary course of mercantile business: Be it enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

Factors Acts  
defined.

1. In this Act the expression 'the principal Acts' means the following Acts, that is to say:—

The Act of the 4th George 4th (1823), c. 83.

The Act of the 6th George 4th (1825), c. 94.

The Act of the 5th and 6th of Her Majesty (1842), c. 39.

And the said Acts and this Act may be cited for all purposes as 'The Factors Acts, 1823 to 1878.'

Amendment of  
the law with  
respect to secret  
revocation of en-  
trustment or  
agency

2. Where any agent or person has been entrusted with and continues in the possession of any goods, or documents of titles to goods, within the meaning of the principal Acts as amended by this Act, any revocation of his entrustment or agency shall not prejudice or affect the title or rights of any other person who, without notice of such revocation, purchases such goods, or makes advances upon the faith or security of such goods or documents.

With respect to  
vendors per-  
mitted to retain  
documents of  
title to goods

3. Where any goods have been sold, and the vendor or any person on his behalf continues or is in the possession of the documents or title thereto, any sale, pledge, or other disposition of the goods or

*Factors Acts—Amendment*

documents made by such vendor, or any person or agent entrusted by the vendor with the goods or documents within the meaning of the principal Acts as amended by this Act so continuing or being in possession, shall be as valid and effectual as if such vendor or person were an agent or person entrusted by the vendee with the goods or documents within the meaning of the principal Acts as amended by this Act, provided the person to whom the sale, pledge, or other disposition is made has not notice that the goods have been previously sold.

4. Where any goods have been sold or contracted to be sold, and the vendee or any person on his behalf, obtains the possession of the documents of title thereto from the vendor or his agents, any sale, pledge, or disposition of such goods or documents by such vendee so in possession or by any other person or agent entrusted by the vendee with the documents within the meaning of the principal Acts as amended by this Act, shall be as valid and effectual as if such vendee or other person were an agent or person entrusted by the vendor with the documents within the meaning of the principal Acts as amended by this Act, provided the person to whom the sale, pledge, or other disposition is made has not notice of any lien or other right of the vendor in respect of the goods.

With respect to vendees permitted to have possession of documents of title to goods

5. Where any document of title to goods has been lawfully endorsed or otherwise transferred to any person as a vendee or owner of the goods, and such person transfers such document by endorsement (or by delivery where the document is by custom or by its express terms transferable by delivery, or makes the goods deliverable to the bearer), to a person who takes the same *bonâ fide* 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*.

With respect to transfers of documents of title

6. This Act shall apply only to acts done and rights acquired after the passing of this Act.

Act not to be retrospective

H. ST. GEORGE ORD,  
GOVERNOR.