

WESTERN AUSTRALIA

ANNO VICESIMO

VICTORIÆ REGINÆ

No. 7

An Ordinance for adopting and applying an Act of Parliament, intituled 'An Act to amend the Law relating to Bills of Lading,' in the administration of justice in the Colony of Western Australia.

[Assented to 16th October, 1856.]

WHEREAS a certain Act of the Parliament of the United Kingdom was passed in the year of our Lord one thousand eight hundred and fifty-five, intituled 'An Act to amend the Law relating to Bills of Lading,' and whereas it is expedient to adopt and apply the said Act in the Colony of Western Australia: Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, that the said Act, each and every clause, provision and enactment therein respectively contained, shall be and the same are and is hereby adopted and directed to be applied in the administration of Justice in the said Colony.

A. E. KENNEDY,

GOVERNOR AND COMMANDER-IN-CHIEF.

ACT REFERRED TO IN THE FOREGOING ORDINANCE

AN ACT TO AMEND THE LAW RELATING TO BILLS OF LADING

18 & 19 Vic.,
c. 9

WHEREAS, by the custom of merchants, a Bill of Lading of goods being transferable by endorsement, the property in the goods may thereby pass to the endorsee, but nevertheless all rights in respect of the contract contained in the Bill of

Bills of Lading

Lading continue in the original shipper or owner, and it is expedient that such rights should pass with the property; and whereas it frequently happens that the goods in respect of which Bills of Lading purport to be signed have not been laden on board, and it is proper that such Bills of Lading in the hands of a *bonâ fide* holder for value should not be questioned by the master or other person signing the name on the ground of the goods not having been laden as aforesaid: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords, Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, as follows:—

1. Every consignee of goods named in a Bill of Lading, and every endorsee of a Bill of Lading to whom the property in the goods therein mentioned shall pass, upon or by reason of such consignment or endorsement, shall have transferred to and vested in him all rights of suit, and be subject to the same liabilities in respect of such goods as if the contract in the Bill of Lading had been made with himself.

Rights under bills of lading to vest in consignee or endorsee

2. Nothing herein contained shall prejudice or affect any right of stoppage *in transitu*, or any right to claim freight against the original shipper or owner, or any liability of the consignee or endorsee by reason or in consequence of his being such consignee or endorsee, or of his receipt of the goods by reason or in consequence of such consignment or endorsement.

Not to affect right of stoppage *in transitu* or claims for freight

3. Every Bill of Lading in the hands of a consignee or endorsee for valuable consideration representing goods to have been shipped on board a vessel shall be conclusive evidence of such shipment as against the master or other person signing the same, notwithstanding that such goods or some part thereof may not have been so shipped, unless such holder of the Bill of Lading shall have had actual notice at the time of receiving the same that the goods had not been in fact laden on board: Provided that the master or other person so signing may exonerate himself in respect of such misrepresentation by showing that it was caused without any default on his part, and wholly by the fraud of the shipper, or of the holder, or some person under whom the holder claims.

Bill of lading in hands of consignee, &c., conclusive evidence of the shipment as against master, &c.

Proviso