

bilities from the General Accounting Office to the General Services Administration, continued the final audit responsibility in the General Accounting Office, authorized the General Services Administration to designate other agencies to conduct such audits.

Subsec. (b). Pub. L. 93-604, § 201(3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 93-604, § 201(3), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 93-604, § 201(3), redesignated subsec. (c) as (d).

1972—Subsec. (a). Pub. L. 92-550, § 1(a), designated existing provisions as subsec. (a) and, in subsec. (a) as so designated, substituted provisions for payment for transportation of persons or property for or on behalf of the United States by carriers or forwarders subject to standards promulgated by the Secretary of the Treasury and the Comptroller General of the United States for provisions for payment for transportation of United States mail, persons or property for or on behalf of the United States by common carriers subject to the Interstate Commerce Act and the Civil Aeronautics Act of 1938, and expanded the definition of "overcharges" to encompass all modes of transportation and all means of contractual arrangements or exemptions from regulations.

Subsecs. (b), (c). Pub. L. 92-550, § 1(b), added subsecs. (b) and (c).

1958—Pub. L. 85-762 substituted "overcharges by" for "overpayment to" and added sentence defining "overcharges".

EFFECTIVE DATE OF 1958 AMENDMENT

Section 3 of Pub. L. 85-762 provided in part that: "The provision of this Act which amends section 322 of the Transportation Act of 1940 [this section] shall apply only to transportation performed and payment made therefor subsequent to the effective date of this Act [August 26, 1958]."

TRANSFER OF RECORDS, PROPERTY, PERSONNEL, AND FUNDS TO GENERAL SERVICES ADMINISTRATION

Pub. L. 93-604, §§ 202, 203, Jan. 2, 1975, 88 Stat. 1960, 1961, authorized the transfer to the General Services Administration of such records, property, personnel, and funds of the General Accounting Office as the Comptroller General and the Director of the Office of Management and Budget determined were necessary incidental to the transfer of audit responsibilities from the General Accounting Office to the General Services Administration by section 201 of Pub. L. 93-604, provided for proper compensation of such transferred personnel, provided that such transfers were to take place no later than Sept. 30, 1976, and required, within six months of the date of such transfers, a report to Congress from the Administrator of General Services Administration concerning the transfers.

CROSS REFERENCES

Overpayment for transportation services, relief from liability of certifying officer, see section 142b of Title 2, The Congress, and section 82c of Title 31, Money and Finance.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 1, 304a, 908, 1006a of this title; title 2 sections 142b, 142e; title 31 section 82c; title 44 section 308.

§ 67. Transferred

CODIFICATION

Section, act Sept. 18, 1940, ch. 722, title III, § 322, 54 Stat. 955, which related to payment for transportation of United States mail and persons or property on behalf of the United States, was transferred to section 66 of this title.

CHAPTER 3—TERMINATION OF FEDERAL CONTROL

§§ 71 to 79. Omitted

CODIFICATION

Sections 71 to 79 were omitted from the Code as obsolete. See below.

Section 71, act Feb. 28, 1920, ch. 91, § 2, 41 Stat. 457, related to definitions.

Section 72, act Feb. 28, 1920, ch. 91, § 202, 41 Stat. 457, related to the funds available.

Section 73, acts Feb. 28, 1920, ch. 91, § 204, 41 Stat. 460; Mar. 4, 1927, ch. 510, § 4, 44 Stat. 1450; Jan. 7, 1941, ch. 938, 54 Stat. 1226, related to reimbursement of deficits during Federal control.

Section 74, acts Feb. 28, 1920, ch. 91, § 206, 41 Stat. 461; Feb. 24, 1922, ch. 70, §§ 1, 2, 42 Stat. 393; Mar. 3, 1923, ch. 233, 42 Stat. 1443; Mar. 4, 1927, ch. 510, § 5, 44 Stat. 1450, related to causes of actions arising out of Federal control.

Section 75, act May 8, 1920, ch. 172, 41 Stat. 590, related to certificate of amounts due from carrier to President and deduction of amounts so certified.

Section 76, act Feb. 28, 1920, ch. 91, § 208(a), (b), 41 Stat. 464, related to continuance of existing rates.

Section 77, act Feb. 28, 1920, ch. 91, § 209, 41 Stat. 464, related to guaranty to carriers after termination of Federal control.

Section 78, act Feb. 28, 1920, ch. 91, § 211, 41 Stat. 464, related to execution of the powers by the President.

Section 79, act Feb. 28, 1920, ch. 91, § 212, as added Feb. 26, 1921, ch. 72, 41 Stat. 1145, related to further certificates and warrants.

§ 80. Transferred

CODIFICATION

Section, act Feb. 28, 1920, ch. 91, § 213, as added Aug. 13, 1940, ch. 666, 54 Stat. 788, which related to disposition of securities, was transferred to section 316 of Title 40, Public Buildings, Property, and Works.

CHAPTER 4—BILLS OF LADING

Sec.

81. Transportation included.
82. Straight bill of lading.
83. Order bill of lading; negotiability.
84. Order bills in parts or sets; liability of carrier.
85. Indorsement on duplicate bill; liability.
86. Indorsement on straight bill.
87. Effect of insertion of name of person to be notified.
88. Duty to deliver goods on demand; refusal.
89. Delivery; when justified.
90. Liability for delivery to person not entitled thereto.
91. Liability for delivery without cancellation of bill.
92. Liability in case of delivery of part of goods.
93. Alteration of bill.
94. Loss, etc., of bill; delivery of goods on order of court.
95. Liability on bill marked "duplicate."
96. Claim of title as excuse for refusal to deliver.
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98. Reasonable time for procedure allowed in case of adverse claim.
99. Failure to deliver; claim of third person as defense.
100. Loading by carrier; counting packages, etc.; contents of bill.
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102. Liability for nonreceipt or misdescription of goods.
103. Attachment, etc., of goods delivered to carrier.
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105. Lien of carrier.
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Sec.

107. Negotiation of order bill by delivery.
108. Negotiation of order bill by indorsement.
109. Transfer of bill by delivery; negotiation of straight bill.
110. Negotiation of order bill by person in possession.
111. Title and right acquired by transferee of order bill.
112. Rights of transferee of bill without negotiation; notice to carrier.
113. Compelling indorsement of order bill transferred by delivery.
114. Warranties arising out of transfer of bill.
115. Liability of indorser of bill.
116. Warranties by mortgagee, etc., receiving payment of bill.
117. Negotiation of bill; impairment of validity.
118. Negotiation of bill by seller, mortgagor, etc., to person without notice.
119. Rights of bona fide purchaser as affected by seller's lien or right of stoppage.
120. Rights of mortgagee or lien holder; limitation.
121. Offenses; penalty.
122. Terms defined.
123. Omitted.
124. Invalidity of part of chapter.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 46 section 1303.

§ 81. Transportation included

Bills of lading issued by any common carrier for the transportation of goods in any Territory of the United States, or the District of Columbia, or from a place in a State to a place in a foreign country, or from a place in one State to a place in another State, or from a place in one State to a place in the same State through another State or foreign country, shall be governed by this chapter.

(Aug. 29, 1916, ch. 415, § 1, 39 Stat. 538.)

EFFECTIVE DATE

Section 56 of act Aug. 29, 1916, provided that this chapter shall take effect on and after Jan. 1, 1917.

SHORT TITLE

Sections 81 to 124 of this title are popularly known as the "Pomerene Bills of Lading Act".

CROSS REFERENCES

Initial carrier's liability to holder of bill of lading, see section 20 of this title.

§ 82. Straight bill of lading

A bill in which it is stated that the goods are consigned or destined to a specified person is a straight bill.

(Aug. 29, 1916, ch. 415, § 2, 39 Stat. 539.)

§ 83. Order bill of lading; negotiability

A bill in which it is stated that the goods are consigned or destined to the order of any person named in such bill is an order bill. Any provision in such a bill or in any notice, contract, rule, regulation, or tariff that it is nonnegotiable shall be null and void and shall not affect its negotiability within the meaning of this chapter unless upon its face and in writing agreed to by the shipper.

(Aug. 29, 1916, ch. 415, § 3, 39 Stat. 539.)

§ 84. Order bills in parts or sets; liability of carrier

Order bills issued in a State for the transportation of goods to any place in the United States on the Continent of North America, except Alaska and Panama, shall not be issued in parts or sets. If so issued, the carrier issuing them shall be liable for failure to deliver the goods described therein to anyone who purchases a part for value in good faith, even though the purchase be after the delivery of the goods by the carrier to a holder of one of the other parts: *Provided, however*, That nothing contained in this section shall be interpreted or construed to forbid the issuing of order bills in parts or sets for such transportation of goods to Alaska, Panama, Puerto Rico, Hawaii, or foreign countries, or to impose the liabilities set forth in this section for so doing.

(Aug. 29, 1916, ch. 415, § 4, 39 Stat. 539; May 17, 1932, ch. 190, 47 Stat. 158; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352.)

CODIFICATION

Words "the Philippine Islands" were omitted from text on authority of 1946 Proc. No. 2695, which granted independence to the Philippines, and which was issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse, and under which section it is set out as a note.

CHANGE OF NAME

The name of "Porto Rico" was changed to "Puerto Rico" by act May 17, 1932.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959 upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959 upon the issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

§ 85. Indorsement on duplicate bill; liability

When more than one order bill is issued in a State for the same goods to be transported to any place in the United States on the Continent of North America, except Alaska and Panama, the word "duplicate", or some other word or words indicating that the document is not an original bill, shall be placed plainly upon the face of every such bill except the one first issued. A carrier shall be liable for the damage caused by his failure so to do to anyone who has purchased the bill for value in good faith as an original, even though the purchase be after the delivery of the goods by the carrier to the holder of the original bill: *Provided, however*, That nothing contained in this section shall in such case for such transportation of goods to Alaska, Panama, Puerto Rico, Hawaii, or foreign countries be interpreted or construed so as to require the placing of the word "duplicate" thereon, or to impose the liabilities set forth in this section for failure so to do.

(Aug. 29, 1916, ch. 415, § 5, 39 Stat. 539; May 17, 1932, ch. 190, 47 Stat. 158; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352.)

CODIFICATION

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§ 86. Indorsement on straight bill

A straight bill shall have placed plainly upon its face by the carrier issuing it "nonnegotiable" or "not negotiable." This section shall not apply, however, to memoranda or acknowledgments of an informal character.

(Aug. 29, 1916, ch. 415, § 6, 39 Stat. 539.)

§ 87. Effect of insertion of name of person to be notified

The insertion in an order bill of the name of a person to be notified of the arrival of the goods shall not limit the negotiability of the bill or constitute notice to a purchaser thereof of any rights or equities of such person in the goods.

(Aug. 29, 1916, ch. 415, § 7, 39 Stat. 539.)

§ 88. Duty to deliver goods on demand; refusal

A carrier, in the absence of some lawful excuse, is bound to deliver goods upon a demand made either by the consignee named in the bill for the goods or, if the bill is an order bill, by the holder thereof, if such a demand is accompanied by—

(a) An offer in good faith to satisfy the carrier's lawful lien upon the goods;

(b) Possession of the bill of lading and an offer in good faith to surrender, properly indorsed, the bill which was issued for the goods, if the bill is an order bill; and

(c) A readiness and willingness to sign, when the goods are delivered, an acknowledgment that they have been delivered, if such signature is requested by the carrier.

In case the carrier refuses or fails to deliver the goods, in compliance with a demand by the consignee or holder so accompanied, the burden shall be upon the carrier to establish the existence of a lawful excuse for such refusal or failure.

(Aug. 29, 1916, ch. 415, § 8, 39 Stat. 539.)

§ 89. Delivery; when justified

A carrier is justified, subject to the provisions of sections 90 to 92 of this title, in delivering goods to one who is—

(a) A person lawfully entitled to the possession of the goods, or

(b) The consignee named in a straight bill for the goods, or

(c) A person in possession of an order bill for the goods, by the terms of which the goods are deliverable to his order; or which has been indorsed to him, or in blank by the consignee, or by the mediate or immediate indorsee of the consignee.

(Aug. 29, 1916, ch. 415, § 9, 39 Stat. 540.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 90, 99 of this title.

§ 90. Liability for delivery to person not entitled thereto

Where a carrier delivers goods to one who is not lawfully entitled to the possession of them, the carrier shall be liable to anyone having a right of property or possession in the goods if he delivered the goods otherwise than as authorized by subdivisions (b) and (c) of section 89 of this title; and, though he delivered the goods as authorized by either of said subdivisions, he shall be so liable if prior to such delivery he—

(a) Had been requested, by or on behalf of a person having a right of property or possession in the goods, not to make such delivery, or

(b) Had information at the time of the delivery that it was to a person not lawfully entitled to the possession of the goods.

Such request or information, to be effective within the meaning of this section, must be given to an officer or agent of the carrier, the actual or apparent scope of whose duties includes action upon such a request or information, and must be given in time to enable the officer or agent to whom it is given, acting with reasonable diligence, to stop delivery of the goods.

(Aug. 29, 1916, ch. 415, § 10, 39 Stat. 540.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 89 of this title.

§ 91. Liability for delivery without cancellation of bill

Except as provided in section 106 of this title, and except when compelled by legal process, if a carrier delivers goods for which an order bill had been issued, the negotiation of which would transfer the right to the possession of the goods, and fails to take up and cancel the bill, such carrier shall be liable for failure to deliver the goods to anyone who for value and in good faith purchases such bill, whether such purchaser acquired title to the bill before or after the delivery of the goods by the carrier and notwithstanding delivery was made to the person entitled thereto.

(Aug. 29, 1916, ch. 415, § 11, 39 Stat. 540.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 89 of this title.

§ 92. Liability in case of delivery of part of goods

Except as provided in section 106 of this title, and except when compelled by legal process, if

a carrier delivers part of the goods for which an order bill had been issued and fails either—

(a) To take up and cancel the bill, or

(b) To place plainly upon it a statement that a portion of the goods has been delivered with a description which may be in general terms either of the goods or packages that have been so delivered or of the goods or packages which still remain in the carrier's possession, he shall be liable for failure to deliver all the goods specified in the bill to anyone who for value and in good faith purchases it, whether such purchaser acquired title to it before or after the delivery of any portion of the goods by the carrier, and notwithstanding such delivery was made to the person entitled thereto.

(Aug. 29, 1916, ch. 415, § 12, 39 Stat. 540.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 89 of this title.

§ 93. Alteration of bill

Any alteration, addition, or erasure in a bill after its issue without authority from the carrier issuing the same either in writing or noted on the bill, shall be void whatever be the nature and purpose of the change, and the bill shall be enforceable according to its original tenor.

(Aug. 29, 1916, ch. 415, § 13, 39 Stat. 540.)

§ 94. Loss, etc., of bill; delivery of goods on order of court

Where an order bill has been lost, stolen, or destroyed a court of competent jurisdiction may order the delivery of the goods upon satisfactory proof of such loss, theft, or destruction and upon the giving of a bond, with sufficient surety, to be approved by the court, to protect the carrier or any person injured by such delivery from any liability or loss incurred by reason of the original bill remaining outstanding. The court may also in its discretion order the payment of the carrier's reasonable costs and counsel fees: *Provided*, A voluntary indemnifying bond without order of court shall be binding on the parties thereto.

The delivery of the goods under an order of the court, as provided in this section, shall not relieve the carrier from liability to a person to whom the order bill has been or shall be negotiated for value without notice of the proceedings or of the delivery of the goods.

(Aug. 29, 1916, ch. 415, § 14, 39 Stat. 540.)

§ 95. Liability on bill marked "duplicate"

A bill, upon the face of which the word "duplicate" or some other word or words indicating that the document is not an original bill is placed, plainly shall impose upon the carrier issuing the same the liability of one who represents and warrants that such bill is an accurate copy of an original bill properly issued, but no other liability.

(Aug. 29, 1916, ch. 415, § 15, 39 Stat. 541.)

§ 96. Claim of title as excuse for refusal to deliver

No title to goods or right to their possession asserted by a carrier for his own benefit shall excuse him from liability for refusing to deliver

the goods according to the terms of a bill issued for them, unless such title or right is derived directly or indirectly from a transfer made by the consignor or consignee after the shipment, or from the carrier's lien.

(Aug. 29, 1916, ch. 415, § 16, 39 Stat. 541.)

§ 97. Interpleader of conflicting claimants

If more than one person claim the title or possession of goods, the carrier may require all known claimants to interplead, either as a defense to an action brought against him for non-delivery of the goods or as an original suit, whichever is appropriate.

(Aug. 29, 1916, ch. 415, § 17, 39 Stat. 541.)

FEDERAL RULES OF CIVIL PROCEDURE

Continuation of section under Rule 22, see note by Advisory Committee under rule 22, Title 28, Appendix, Judiciary and Judicial Procedure.

Interpleader, see rule 22.

CROSS REFERENCES

Interpleader in federal district court, see sections 1335, 1397, and 2361 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 99 of this title.

§ 98. Reasonable time for procedure allowed in case of adverse claim

If someone other than the consignee or the person in possession of the bill has a claim to the title or possession of the goods, and the carrier has information of such claim, the carrier shall be excused from liability for refusing to deliver the goods, either to the consignee or person in possession of the bill or to the adverse claimant, until the carrier has had a reasonable time to ascertain the validity of the adverse claim or to bring legal proceedings to compel all claimants to interplead.

(Aug. 29, 1916, ch. 415, § 18, 39 Stat. 541.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 99 of this title.

§ 99. Failure to deliver; claim of third person as defense

Except as provided in sections 89, 97, and 98 of this title, no right or title of a third person, unless enforced by legal process, shall be a defense to an action brought by the consignee of a straight bill or by the holder of an order bill against the carrier for failure to deliver the goods on demand.

(Aug. 29, 1916, ch. 415, § 19, 39 Stat. 541.)

§ 100. Loading by carrier; counting packages, etc.; contents of bill

When goods are loaded by a carrier, such carrier shall count the packages of goods if package freight, and ascertain the kind and quantity if bulk freight, and such carrier shall not, in such cases, insert in the bill of lading or in any notice, receipt, contract, rule, regulation, or tariff, "Shipper's weight, load, and count", or other words of like purport, indicating that the goods were loaded by the shipper and the description of them made by him, or in case of

bulk freight and freight not concealed by packages the description made by him. If so inserted contrary to the provisions of this section, said words shall be treated as null and void and as if not inserted therein.

(Aug. 29, 1916, ch. 415, § 20, 39 Stat. 541.)

§ 101. Loading by shipper; contents of bill; ascertainment of kind and quantity on request

When package freight or bulk freight is loaded by a shipper and the goods are described in a bill of lading merely by a statement of marks or labels upon them or upon packages containing them, or by a statement that the goods are said to be goods of a certain kind or quantity, or in a certain condition, or it is stated in the bill of lading that packages are said to contain goods of a certain kind or quantity or in a certain condition, or that the contents or condition of the contents of packages are unknown, or words of like purport are contained in the bill of lading, such statements, if true, shall not make liable the carrier issuing the bill of lading, although the goods are not of the kind or quantity or in the condition which the marks or labels upon them indicate, or of the kind or quantity or in the condition they were said to be by the consignor. The carrier may also by inserting in the bill of lading the words "Shipper's weight, load, and count", or other words of like purport, indicate that the goods were loaded by the shipper and the description of them made by him; and if such statement be true, the carrier shall not be liable for damages caused by the improper loading or by the nonreceipt or by the misdescription of the goods described in the bill of lading: *Provided, however,* Where the shipper of bulk freight installs and maintains adequate facilities for weighing such freight, and the same are available to the carrier, then the carrier, upon written request of such shipper and when given a reasonable opportunity so to do, shall ascertain the kind and quantity of bulk freight within a reasonable time after such written request, and the carriers shall not in such cases insert in the bill of lading the words "Shipper's weight", or other words of like purport, and if so inserted contrary to the provisions of this section, said words shall be treated as null and void and as if not inserted therein.

(Aug. 29, 1916, ch. 415, § 21, 39 Stat. 541.)

§ 102. Liability for nonreceipt or misdescription of goods

If a bill of lading has been issued by a carrier or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the receiving of goods and issuing bills of lading therefor for transportation in commerce among the several States and with foreign nations, the carrier shall be liable to (a) the owner of goods covered by a straight bill subject to existing right of stoppage in transitu or (b) the holder of an order bill, who has given value in good faith, relying upon the description therein of the goods, or upon the shipment being made upon the date therein shown, for damages caused by the nonreceipt by the carrier of all or part of the goods upon or prior to the date therein shown, or their failure to correspond

with the description thereof in the bill at the time of its issue.

(Aug. 29, 1916, ch. 415, § 22, 39 Stat. 542; Mar. 4, 1927, ch. 510, § 6, 44 Stat. 1450.)

AMENDMENTS

1927—Act Mar. 4, 1927, inserted provisions relating to reliance upon date of shipment shown in bill.

§ 103. Attachment, etc., of goods delivered to carrier

If goods are delivered to a carrier by the owner or by a person whose act in conveying the title to them to a purchaser for value in good faith would bind the owner, and an order bill is issued for them, they can not thereafter, while in the possession of the carrier, be attached by garnishment or otherwise or be levied upon under an execution unless the bill be first surrendered to the carrier or its negotiation enjoined. The carrier shall in no such case be compelled to deliver the actual possession of the goods until the bill is surrendered to him or impounded by the court.

(Aug. 29, 1916, ch. 415, § 23, 39 Stat. 542.)

§ 104. Remedies of creditor of owner of order bill

A creditor whose debtor is the owner of an order bill shall be entitled to such aid from courts of appropriate jurisdiction by injunction and otherwise in attaching such bill or in satisfying the claim by means thereof as is allowed at law or in equity in regard to property which cannot readily be attached or levied upon by ordinary legal process.

(Aug. 29, 1916, ch. 415, § 24, 39 Stat. 542.)

§ 105. Lien of carrier

If an order bill is issued the carrier shall have a lien on the goods therein mentioned for all charges on those goods for freight, storage, demurrage and terminal charges, and expenses necessary for the preservation of the goods or incident to their transportation subsequent to the date of the bill and all other charges incurred in transportation and delivery, unless the bill expressly enumerates other charges for which a lien is claimed. In such case there shall also be a lien for the charges enumerated so far as they are allowed by law and the contract between the consignor and the carrier.

(Aug. 29, 1916, ch. 415, § 25, 39 Stat. 542.)

§ 106. Liability after sale to satisfy lien, etc.

After goods have been lawfully sold to satisfy a carrier's lien, or because they have not been claimed, or because they are perishable or hazardous, the carrier shall not thereafter be liable for failure to deliver the goods themselves to the consignee or owner of the goods, or to a holder of the bill given for the goods when they were shipped, even if such bill be an order bill.

(Aug. 29, 1916, ch. 415, § 26, 39 Stat. 542.)

CROSS REFERENCES

Liability for delivery without cancellation of bill, see sections 91 and 92 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 91, 92 of this title.

§ 107. Negotiation of order bill by delivery

An order bill may be negotiated by delivery where, by the terms of the bill, the carrier undertakes to deliver the goods to the order of a specified person, and such person or a subsequent indorsee of the bill has indorsed it in blank.

(Aug. 29, 1916, ch. 415, § 27, 39 Stat. 542.)

§ 108. Negotiation of order bill by indorsement

An order bill may be negotiated by the indorsement of the person to whose order the goods are deliverable by the tenor of the bill. Such indorsement may be in blank or to a specified person. If indorsed to a specified person, it may be negotiated again by the indorsement of such person in blank or to another specified person. Subsequent negotiation may be made in like manner.

(Aug. 29, 1916, ch. 415, § 28, 39 Stat. 543.)

§ 109. Transfer of bill by delivery; negotiation of straight bill

A bill may be transferred by the holder by delivery, accompanied with an agreement, express or implied, to transfer the title to the bill or to the goods represented thereby. A straight bill can not be negotiated free from existing equities, and the indorsement of such a bill gives the transferee no additional right.

(Aug. 29, 1916, ch. 415, § 29, 39 Stat. 543.)

§ 110. Negotiation of order bill by person in possession

An order bill may be negotiated by any person in possession of the same, however such possession may have been acquired, if by the terms of the bill the carrier undertakes to deliver the goods to the order of such person, or if at the time of negotiation the bill is in such form that it may be negotiated by delivery.

(Aug. 29, 1916, ch. 415, § 30, 39 Stat. 543.)

§ 111. Title and right acquired by transferee of order bill

A person to whom an order bill has been duly negotiated acquires thereby—

(a) Such title to the goods as the person negotiating the bill to him had or had ability to convey to a purchaser in good faith for value, and also such title to the goods as the consignee and consignor had or had power to convey to a purchaser in good faith for value; and

(b) The direct obligation of the carrier to hold possession of the goods for him according to the terms of the bill as fully as if the carrier had contracted directly with him.

(Aug. 29, 1916, ch. 415, § 31, 39 Stat. 543.)

§ 112. Rights of transferee of bill without negotiation; notice to carrier

A person to whom a bill has been transferred, but not negotiated, acquires thereby as against the transferor the title to the goods, subject to the terms of any agreement with the transferor. If the bill is a straight bill such person also acquires the right to notify the carrier of the transfer to him of such bill and thereby to

become the direct obligee of whatever obligations the carrier owed to the transferor of the bill immediately before the notification.

Prior to the notification of the carrier by the transferor or transferee of a straight bill the title of the transferee to the goods and the right to acquire the obligation of the carrier may be defeated by garnishment or by attachment or execution upon the goods by a creditor of the transferor, or by a notification to the carrier by the transferor or a subsequent purchaser from the transferor of a subsequent sale of the goods by the transferor.

A carrier has not received notification within the meaning of this section unless an officer or agent of the carrier, the actual or apparent scope of whose duties includes action upon such a notification, has been notified; and no notification shall be effective until the officer or agent to whom it is given has had time, with the exercise of reasonable diligence, to communicate with the agent or agents having actual possession or control of the goods.

(Aug. 29, 1916, ch. 415, § 32, 39 Stat. 543.)

§ 113. Compelling indorsement of order bill transferred by delivery

Where an order bill is transferred for value by delivery, and the indorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to indorse the bill, unless a contrary intention appears. The negotiation shall take effect as of the time when the indorsement is actually made. This obligation may be specifically enforced.

(Aug. 29, 1916, ch. 415, § 33, 39 Stat. 543.)

§ 114. Warranties arising out of transfer of bill

A person who negotiates or transfers for value a bill by indorsement or delivery, unless a contrary intention appears, warrants—

- (a) That the bill is genuine;
- (b) That he has a legal right to transfer it;
- (c) That he has knowledge of no fact which would impair the validity or worth of the bill;
- (d) That he has a right to transfer the title to the goods, and that the goods are merchantable or fit for a particular purpose whenever such warranties would have been implied if the contract of the parties had been to transfer without a bill the goods represented thereby.

(Aug. 29, 1916, ch. 415, § 34, 39 Stat. 543.)

§ 115. Liability of indorser of bill

The indorsement of a bill shall not make the indorser liable for any failure on the part of the carrier or previous indorsers of the bill to fulfill their respective obligations.

(Aug. 29, 1916, ch. 415, § 35, 39 Stat. 544.)

§ 116. Warranties by mortgagee, etc., receiving payment of bill

A mortgagee or pledgee or other holder of a bill for security who in good faith demands or receives payment of the debt for which such bill is security, whether from a party to a draft drawn for such debt or from any other person, shall not be deemed by so doing to represent or

warrant the genuineness of such bill or the quantity or quality of the goods therein described.

(Aug. 29, 1916, ch. 415, § 36, 39 Stat. 544.)

§ 117. Negotiation of bill; impairment of validity

The validity of the negotiation of a bill is not impaired by the fact that such negotiation was a breach of duty on the part of the person making the negotiation, or by the fact that the owner of the bill was deprived of the possession of the same by fraud, accident, mistake, duress, loss, theft, or conversion, if the person to whom the bill was negotiated, or a person to whom the bill was subsequently negotiated, gave value therefor in good faith, without notice of the breach of duty, or fraud, accident, mistake, duress, loss, theft, or conversion.

(Aug. 29, 1916, ch. 415, § 37, 39 Stat. 544.)

§ 118. Negotiation of bill by seller, mortgagor, etc., to person without notice

Where a person, having sold, mortgaged, or pledged goods which are in a carrier's possession and for which an order bill has been issued, or having sold, mortgaged, or pledged the order bill representing such goods, continues in possession of the order bill the subsequent negotiation thereof by that person under any sale, pledge, or other disposition thereof to any person receiving the same in good faith, for value and without notice of the previous sale, shall have the same effect as if the first purchaser of the goods or bill had expressly authorized the subsequent negotiation.

(Aug. 29, 1916, ch. 415, § 38, 39 Stat. 544.)

§ 119. Rights of bona fide purchaser as affected by seller's lien or right of stoppage

Where an order bill has been issued for goods no seller's lien or right of stoppage in transitu shall defeat the rights of any purchaser for value in good faith to whom such bill has been negotiated, whether such negotiation be prior or subsequent to the notification to the carrier who issued such bill of the seller's claim to a lien or right of stoppage in transitu. Nor shall the carrier be obliged to deliver or justified in delivering the goods to an unpaid seller unless such bill is first surrendered for cancellation.

(Aug. 29, 1916, ch. 415, § 39, 39 Stat. 544.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 120 of this title.

§ 120. Rights of mortgagee or lien holder; limitation

Except as provided in section 119 of this title, nothing in this chapter shall limit the rights and remedies of a mortgagee or lien holder whose mortgage or lien on goods would be valid, apart from this chapter, as against one who for value and in good faith purchased from the owner, immediately prior to the time of their delivery to the carrier, the goods which are subject to the mortgage or lien and obtained possession of them.

(Aug. 29, 1916, ch. 415 § 40, 39 Stat. 544.)

§ 121. Offenses; penalty

Any person who, knowingly or with intent to defraud, falsely makes, alters, forges, counterfeits, prints or photographs any bill of lading purporting to represent goods received for shipment among the several States or with foreign nations, or with like intent utters or publishes as true and genuine any such falsely altered, forged, counterfeited, falsely printed or photographed bill of lading, knowing it to be falsely altered, forged, counterfeited, falsely printed or photographed, or aids in making, altering, forging, counterfeiting, printing or photographing, or uttering or publishing the same, or issues or aids in issuing or procuring the issue of, or negotiates or transfers for value a bill which contains a false statement as to the receipt of the goods, or as to any other matter, or who, with intent to defraud, violates, or fails to comply with, or aids in any violation of, or failure to comply with any provision of this chapter, shall be guilty of a misdemeanor, and, upon conviction, shall be punished for each offense by imprisonment not exceeding five years, or by a fine not exceeding \$5,000, or both.

(Aug. 29, 1916, ch. 415, § 41, 39 Stat. 544.)

CROSS REFERENCES

Felony as offense punishable by imprisonment for term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 122. Terms defined

In this chapter, unless the context of subject matter otherwise requires—

"Action" includes counterclaim, set-off, and suit in equity.

"Bill" means bill of lading, governed by this chapter.

"Consignee" means the person named in the bill as the person to whom delivery of the goods is to be made.

"Consignor" means the person named in the bill as the person from whom the goods have been received for shipment.

"Goods" means merchandise or chattels in course of transportation or which have been or are about to be transported.

"Holder" of a bill means a person who has both actual possession of such bill and a right of property therein.

"Order" means an order by indorsement on the bill.

"Person" includes a corporation or partnership, or two or more persons having a joint or common interest.

To "purchase" includes to take as mortgagee and to take as pledgee.

"State" includes any Territory, District, insular possession, or isthmian possession.

(Aug. 29, 1916, ch. 415, § 42, 39 Stat. 545.)

§ 123. Omitted

CODIFICATION

Section, act Aug. 29, 1916, ch. 415, § 43, 39 Stat. 545, which provided that provisions of this chapter should not apply to bills made and delivered prior to Jan. 1, 1917, was omitted from the Code as obsolete.

§ 124. Invalidity of part of chapter

The provisions and each part thereof and the sections and each part thereof of this chapter are independent and severable, and the declaring of any provision or part thereof, or provisions or part thereof, or section or part thereof, or sections or part thereof, unconstitutional shall not impair or render unconstitutional any other provision or part thereof or section or part thereof.

(Aug. 29, 1916, ch. 415, § 44, 39 Stat. 545.)

**CHAPTER 5—INLAND WATERWAYS
TRANSPORTATION**

SUBCHAPTER I—GENERALLY

Sec.

141. Repealed.

142. Development of water transportation; duties of Secretary of Commerce.

143. Omitted.

**SUBCHAPTER II—INLAND WATERWAYS
CORPORATION**

151 to 157. Repealed.

SUBCHAPTER I—GENERALLY

§ 141. Repealed. Pub. L. 88-67, § 1(2), July 19, 1963, 77 Stat. 81

Section, acts Feb. 28, 1920, ch. 91, § 201, 41 Stat. 458; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1392; 1939 Reorg. Plan No. II, § 6, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, provided for transfer of Government-owned boats, barges, etc., on inland waters, to Secretary of Commerce, payments after such transfer, construction of terminal facilities by Secretary of Commerce, transportation facilities on Mississippi River, application of other laws and employment of personnel.

§ 142. Development of water transportation; duties of Secretary of Commerce

It is declared to be the policy of Congress to promote, encourage, and develop water transportation, service, and facilities in connection with the commerce of the United States, and to foster and preserve in full vigor both rail and water transportation.

It shall be the duty of the Secretary of Commerce, with the object of promoting, encouraging, and developing inland waterway transportation facilities in connection with the commerce of the United States, to investigate the appropriate types of boats suitable for different classes of such waterways; to investigate the subject of water terminals, both for inland waterway traffic and for through traffic by water and rail, including the necessary docks, warehouses, apparatus, equipment, and appliances in connection therewith, and also railroad spurs, and switches connecting with such terminals, with a view to devising the types most appropriate for different locations, and for the more expeditious and economical transfer or interchange of passengers or property between carriers by water and carriers by rail; to advise with communities, cities, and towns regarding the appropriate location of such terminals, and to cooperate with them in the preparation of plans for suitable terminal facilities; to investigate the existing status of water transportation upon the different inland waterways of the country, with a view to determining whether

such waterways are being utilized to the extent of their capacity, and to what extent they are meeting the demands of traffic, and whether the water carriers utilizing such waterways are interchanging traffic with the railroads; and to investigate any other matter that may tend to promote and encourage inland water transportation. It shall also be the province and duty of the Secretary of Commerce to compile, publish, and distribute, from time to time, such useful statistics, data, and information concerning transportation on inland waterways as he may deem to be of value to the commercial interests of the country.

The words "inland waterway" as used in this section shall be construed to include the Great Lakes.

(Feb. 28, 1920, ch. 91, § 500, 41 Stat. 499; 1939 Reorg. Plan No. II, § 6, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434.)

TRANSFER OF FUNCTIONS

The Inland Waterways Corporation and all of its functions and obligations were transferred to the Department of Commerce, and all functions and duties of the Secretary of War with regard to the Corporation were transferred to the Secretary of Commerce by Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees.

§ 143. Omitted

CODIFICATION

Section, act Feb. 27, 1921, ch. 81, 41 Stat. 1149, which provided for discontinuance of authority of the Secretary of War to operate transportation facilities under section 141 of this title upon the New York State Barge Canal and for the sale of such facilities, was omitted from the Code as obsolete.

**SUBCHAPTER II—INLAND WATERWAYS
CORPORATION**

§§ 151 to 157. Repealed. Pub. L. 88-67, § 1(1), July 19, 1963, 77 Stat. 81

Section 151, act June 3, 1924, ch. 243, § 1, 43 Stat. 360; 1939 Reorg. Plan No. II, § 6, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, created the Inland Waterways Corporation, to be governed and directed by the Secretary of Commerce.

Section 152, acts June 3, 1924, ch. 243, § 2, 43 Stat. 360; May 29, 1928, ch. 891, § 1, 45 Stat. 978; 1939 Reorg. Plan No. II, § 6, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, provided that the capital stock of the Inland Waterways Corporation be \$15,000,000.

Section 153, acts June 3, 1924, ch. 243, § 3, 43 Stat. 361; May 29, 1928, ch. 891, § 2, 45 Stat. 978; June 16, 1934, ch. 545, 48 Stat. 968; Aug. 29, 1935, ch. 802, 49 Stat. 958; 1939 Reorg. Plan No. II, § 6, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434; Feb. 4, 1887, ch. 104, pt. III, § 320, as added Sept. 18, 1940, ch. 722, title II, § 201, 54 Stat. 950, eff. Oct. 1, 1940, related to operation of transportation and terminal facilities and application of other laws.

Section 154, acts June 3, 1924, ch. 243, § 4, 43 Stat. 361; Feb. 28, 1927, ch. 229, 44 Stat. 1261; 1939 Reorg. Plan No. II, § 6, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, related to appointment of an Advisory Board its membership, chairman, meetings and duties, and compensation of members.

Section 155, act June 3, 1924, ch. 243, § 5, 43 Stat. 362; 1939 Reorg. Plan No. II, § 6, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, provided for the powers of the Inland Waterways Corporation.

Section 156, act June 3, 1924, ch. 243, § 6, 43 Stat. 362; 1939 Reorg. Plan No. II, § 6, eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, related to transfer of assets to