

No. 324.

AN ACT

To validate the acts of persons acting as deputy prothonotaries who may not have been actually appointed and qualified as required by law.

Section 1. Be it enacted, &c., That the official acts done by any person performing the duties of and actually acting as a deputy prothonotary of any of the several courts of common pleas of the Commonwealth of Pennsylvania prior to the first day of March, one thousand nine hundred and twenty-five, shall be deemed and are hereby declared to be valid and binding as official records of the said courts, notwithstanding the fact that the person so acting as deputy prothonotary shall not have been actually appointed and qualified as required by law.

Acts of persons acting as deputy prothonotaries validated.

Section 2. The provisions of this act shall not affect any suits now pending.

Not to affect suits pending.

APPROVED—The 12th day of May, A. D. 1925.

GIFFORD PINCHOT.

No. 325.

AN ACT

Concerning conditional sales; and to make uniform the law relating thereto.

CONTENTS.

Section 1.	Definition of Terms.
Section 2.	Primary Rights of Buyer.
Section 3.	Primary Rights of Seller.
Section 4.	Conditional Sales Valid except as Otherwise Provided.
Section 5.	Conditional Sales Void as to Certain Persons.
Section 6.	Place of Filing.
Section 7.	Fixtures.
Section 8.	Railroad Equipment or Rolling Stock.
Section 9.	Conditional Sale of Goods for Resale.
Section 10.	Filing.
Section 11.	Refiling.
Section 12.	Cancellation of Contract.
Section 13.	Prohibition of Removal or Sale without Notice.
Section 14.	Refiling on Removal.
Section 15.	Fraudulent Injury, Concealment, Removal, or Sale.
Section 16.	Retaking Possession.
Section 17.	Notice of Intention to Retake.
Section 18.	Redemption.
Section 19.	Compulsory Resale by Seller.
Section 20.	Resale at Option of Parties.
Section 21.	Proceeds of Resale.
Section 22.	Deficiency on Resale.

Section 23.	Rights of Parties when There Is No Resale.
Section 24.	Election of Remedies.
Section 25.	Recovery of Part Payments.
Section 26.	Waiver of Statutory Protection.
Section 27.	Loss and Increase.
Section 28.	Act Prospective Only.
Section 29.	Rules for Cases Not Provided For.
Section 30.	Uniformity of Interpretation.
Section 31.	Short Title.
Section 32.	Inconsistent Laws Repealed.
Section 33.	Time of Taking Effect.

"Conditional sale."

Section 1. *Definition of Terms.* Be it enacted, &c., That in this act "conditional sale" means any contract for the sale of goods under which possession is delivered to the buyer and the property in the goods is to vest in the buyer at a subsequent time upon the payment of part or all of the price or upon the performance of any other condition or the happening of any contingency.

"Buyer."

"Buyer" means the person who buys the goods covered by the conditional sale, or any legal successor in interest of such person.

"Filing district."

"Filing district" means the subdivision of the State in which conditional sale contracts or copies thereof are required by this act to be filed.

"Goods."

"Goods" means all chattels personal, other than things in action and money and machinery attached or to be attached to real estate and includes emblements, industrial growing crops, and things attached to or forming a part of land which are agreed to be severed before sale or under the conditional sale.

"Performance of the condition."

"Performance of the condition" means the occurrence of the event upon which the property in the goods is to vest in the buyer, whether such event is the performance of an act by the buyer or the happening of a contingency.

"Person."

"Person" includes an individual, partnership, corporation, and any other association.

"Purchase."

"Purchase" includes mortgage and pledge.

"Purchaser."

"Purchaser" includes mortgagee and pledgee.

"Seller."

"Seller" means the person who sells the goods covered by the conditional sale or any legal successor in interest of such person.

Section 2. *Primary Rights of Buyer.* The buyer shall have the right when not in default to retain possession of the goods and he shall also have the right to acquire the property in the goods on the performance of the conditions of the contract. The seller shall be liable to the buyer for the breach of all promises and warranties, express or implied, made in the conditional sale contract, whether or not the property in the goods has passed to the buyer.

Section 3. *Primary Rights of Seller.* The buyer shall be liable to the seller for the purchase price or for installments thereof as the same shall become due and for breach of all promises made by him in the

conditional sale contract, whether or not the property in the goods has passed to the buyer.

Section 4. *Conditional Sales Valid except as Otherwise Provided.* Every provision in a conditional sale, reserving property in the seller after possession of the goods is delivered to the buyer, shall be valid as to all persons, except as hereinafter otherwise provided.

Section 5. *Conditional Sales Void as to Certain Persons.* Every provision in a conditional sale reserving property in the seller shall be void as to any purchaser from or creditor of the buyer who, without notice of such provision, purchases the goods or acquires by attachment or levy a lien upon them before the contract or a copy thereof shall be filed, as hereinafter provided, unless such contract or copy is so filed within ten days after the making of the conditional sale.

Section 6. *Place of Filing.* The conditional sale contract or copy shall be filed in the office of the prothonotary in the county in which the goods are first kept for use by the buyer after the sale. It shall not be necessary to the validity of such conditional sale contract, or in order to entitle it to be filed, that it may be acknowledged or attested. This section shall not apply to the contracts described in section eight.

Section 7. *Fixtures.* If the goods are so affixed to realty at the time of a conditional sale or subsequently as to become a part thereof and not to be severable wholly or in any portion without material injury to the freehold, the reservation of property as to any portion not so severable shall be void after the goods are so affixed, as against any person who has not expressly assented to the reservation. If the goods are so affixed to realty at the time of a conditional sale or subsequently as to become part thereof, but to be severable without material injury to the freehold, the reservation of property shall be void after the goods are so affixed as against subsequent purchasers of the realty for value and without notice of the conditional seller's title, unless the conditional sale contract or a copy thereof, together with a statement signed by the seller, briefly describing the realty and stating that the goods are or are to be affixed thereto, shall be filed before such purchase in the office where a deed of the realty would be recorded or registered to affect such realty. As against the owner of realty the reservation of the property in goods by a conditional seller shall be void when such goods are to be so affixed to the realty as to become part thereof, but to be severable without material injury to the freehold, unless the conditional sale contract or a copy thereof, together with a statement signed by the seller, briefly describing the realty and stating that the

goods are to be affixed thereto, shall be filed, before they are affixed, in the office where a deed would be recorded or registered to affect such realty.

Section 8. *Railroad Equipment or Rolling Stock.* No conditional sale of railroad or street or interurban railway equipment or rolling stock shall be valid as against the purchasers and creditors described in section five unless the contract shall be acknowledged by the buyer or attested in like manner as a deed of real property and the contract or a copy thereof shall be filed or recorded in the office of the Secretary of the Commonwealth, and unless when any engine or car so sold is delivered there shall then be plainly and conspicuously marked upon each side thereof the name of the seller followed by the word "owner."

Section 9. *Conditional Sale of Goods for Resale.* When goods are delivered under a conditional sale contract and the seller expressly or impliedly consents that the buyer may resell them prior to performance of the condition, the reservation of property shall be void against purchasers from the buyer for value in the ordinary course of business, and as to them the buyer shall be deemed the owner of the goods even though the contract or a copy thereof shall be filed according to the provisions of this act.

Section 10. *Filing.* The filing officer shall mark upon the contract or copy filed with him the day and hour of filing and shall file the contract or copy in his office for public inspection. He shall keep a separate book in which he shall enter the names of the seller and buyer, the date of the contract, the day and hour of filing, a brief description of goods, the price named in the contract, and the date of cancellation thereof, except that in entering the contract mentioned in section eight the recorder of deeds shall record either the sum remaining to be paid upon the contract or the price of the goods. Such book shall be indexed under the name of both seller and buyer. For filing and entering such contract or copy the filing officer shall be entitled to a fee of fifty cents, except that for filing and entering a contract described in section eight the recorder of deeds shall be entitled to the same fee as he is now allowed by law for similar services.

Section 11. *Refiling.* The filing of conditional sale contracts provided for in sections five, six, and seven shall be valid for a period of three years only. The filing of the contract provided for by section eight shall be valid for a period of fifteen years only. The validity of the filing may in each case be extended for successive additional periods of one year from the date of refiling by filing in the proper filing district a copy of the original contract within thirty days next preceding the expiration of each period, with a state-

ment attached signed, by the seller, showing that the contract is in force and the amount remaining to be paid thereon. Such copy with statement attached shall be filed and entered in the same manner as a contract or copy filed and entered for the first time, and the filing office shall be entitled to a like fee as upon the original filing.

Section 12. *Cancellation of Contract.* After the performance of the condition, upon written demand delivered personally or by registered mail by the buyer or any other person having an interest in the goods, the seller shall execute, acknowledge, and deliver to the demandant a statement that the condition in the contract has been performed. If for ten days after such demand the seller fails to mail or deliver such a statement of satisfaction he shall forfeit to the demandant five dollars and be liable for all damages suffered. Upon presentation of such statement of satisfaction the filing officer shall file the same and note the cancellation of the contract and the date thereof on the margin of the page where the contract has been entered. For filing and entering the statement of satisfaction the filing officer shall be entitled to a fee of thirty cents, except that the recorder of deeds shall be entitled to a fee of fifty cents for filing and entering a statement of the satisfaction of a contract described in section eight.

Section 13. *Prohibition of Removal or Sale without Notice.* Unless the contract otherwise provides, the buyer may without the consent of the seller remove the goods from any filing district and sell, mortgage, or otherwise dispose of his interest in them, but prior to the performance of the condition no such buyer shall remove the goods from a filing district in which the contract or a copy thereof is filed, except for temporary uses, for a period of not more than thirty days unless the buyer not less than ten days before such removal shall give the seller personally or by registered mail written notice of the place to which the goods are to be removed and the approximate time of such intended removal, nor prior to the performance of the condition shall the buyer sell, mortgage, or otherwise dispose of his interest in the goods unless he or the person to whom he is about to sell, mortgage, or otherwise dispose of the same shall notify the seller in writing, personally, or by registered mail, of the name and address of the person to whom his interest in the goods is about to be sold, mortgaged, or otherwise transferred not less than ten days before such sale, mortgage, or other disposal. If any buyer does so remove the goods or does so sell, mortgage, or otherwise dispose of his interest in them without such notice or in violation of the contract, the seller may retake possession of the goods and deal

with them, as in case of default, in payment of part or all of the purchase price. The provisions of this section regarding the removal of goods shall not apply, however, to the goods described in section eight.

Section 14. *Refiling on Removal.* When prior to the performance of the condition the goods are removed by the buyer from a filing district in this State to another filing district in this State in which such contract or a copy thereof is not filed, or are removed from another State into a filing district in this State where such contract or copy is not filed, the reservation of the property in the seller shall be void as to the purchasers and creditors described in section five unless the conditional sale contract or a copy thereof shall be filed in the filing district to which the goods are removed within ten days after the seller has received notice of the filing district to which the goods have been removed. The provisions of this section shall not apply, however, to the goods described in section eight. The provisions of section eleven regarding the duration of the validity of the filing, and the necessity for refiling, shall apply to contracts or copies which are filed in a filing district other than where the goods are originally kept for use by the buyer after the sale.

Section 15. *Fraudulent Injury, Concealment, Removal, or Sale.* When prior to the performance of the condition the buyer maliciously or with intent to defraud shall injure, destroy, or conceal the goods, or remove them to a filing district where the contract or a copy thereof is not filed, without having given the notice required by section thirteen, or shall sell, mortgage, or otherwise dispose of such goods under claim of full ownership, he shall be guilty of a crime and upon conviction thereof shall be imprisoned in the county jail for not more than one year, or be fined not more than five hundred dollars, or both.

Section 16. *Retaking Possession.* When the buyer shall be in default in the payment of any sum due under the contract, or in the performance of any other condition which the contract requires him to perform in order to obtain the property in the goods, or in the performance of any promise the breach of which is by the contract expressly made a ground for the retaking of the goods, the seller may retake possession thereof. Unless the goods can be retaken without breach of the peace they shall be retaken by legal process, but nothing herein shall be construed to authorize a violation of the criminal law.

Section 17. *Notice of Intention to Retake.* Not more than forty nor less than twenty days prior to the retaking, the seller, if he so desires, may serve upon the buyer personally or by registered mail a notice of intention to retake the goods on account of

the buyer's default. The notice shall state the default and the period at the end of which the goods will be retaken and shall briefly and clearly state what the buyer's rights under this act will be in case they are retaken. If the notice is so served and the buyer does not perform the obligations in which he has made default before the day set for retaking, the seller may retake the goods and hold them subject to the provisions of sections nineteen, twenty, twenty-one, twenty-two, and twenty-three regarding the sale, but without any right of redemption.

Section 18. *Redemption.* If the seller does not give the notice of intention to retake described in section seventeen, he shall retain the goods for ten days after the retaking within the State in which they were located when retaken, during which period the buyer, upon payment or tender of the amount due under the contract at the time of retaking and interest, or upon performance or tender of performance of such other condition as may be named in the contract as precedent to the passage of the property in the goods, or upon performance or tender of performance of any other promise for the breach of which the goods were retaken, and upon payment of the expenses of retaking, keeping, and storage, may redeem the goods and become entitled to take possession of them and to continue in the performance of the contract as if no default had occurred. Upon written demand, delivered personally or by registered mail by the buyer, the seller shall furnish to the buyer a written statement of the sum due under the contract and the expense of retaking, keeping, and storage. For failure to furnish such statement within a reasonable time after demand the seller shall forfeit to the buyer ten dollars and also be liable to him for all damages suffered because of such failure. If the goods are perishable so that retention for ten days, as herein prescribed, would result in their destruction or substantial injury, the provisions of this section shall not apply and the seller may resell the goods immediately upon their retaking. The provision of this section requiring the retention of the goods within the State during the period allowed for redemption shall not apply to the goods described in section eight.

Section 19. *Compulsory Resale by Seller.* If the buyer does not redeem the goods within ten days after the seller has retaken possession, and the buyer has paid at least fifty per cent. of the purchase price at the time of the retaking, the seller shall sell them at public auction in the State where they were at the time of the retaking; such sale to be held not more than thirty days after the retaking. The seller shall give to the buyer not less than ten days' written notice of the sale either personally or by registered

mail directed to the buyer at his last known place of business or residence. The seller shall also give notice of the sale by at least three notices posted in different public places within the filing district where the goods are to be sold, at least five days before the sale. If at the time of the retaking five hundred dollars or more has been paid on the purchase price the seller shall also give notice of the sale at least five days before the sale by publication in a newspaper published or having a general circulation within the filing district where the goods are to be sold. The seller may bid for the goods at the resale. If the goods are of the kind described in section eight the parties may fix in the conditional sale contract the place where the goods shall be resold.

Section 20. *Resale at Option of Parties.* If the buyer has not paid at least fifty per cent. of the purchase price at the time of the retaking, the seller shall not be under a duty to resell the goods, as prescribed in section nineteen, unless the buyer serves upon the seller, within ten days after the retaking, a written notice demanding a resale, delivered personally or by registered mail. If such notice is served the resale shall take place within thirty days after the service in the manner, at the place, and upon the notice prescribed in section nineteen. The seller may voluntarily resell the goods for account of the buyer on compliance with the same requirements.

Section 21. *Proceeds of Resale.* The proceeds of the resale shall be applied (one) to the payment of the expenses thereof; (two) to the payment of the expenses of retaking, keeping, and storing the goods; (three) to the satisfaction of the balance due under the contract. Any sum remaining after the satisfaction of such claims shall be paid to the buyer.

Section 22. *Deficiency on Resale.* If the proceeds of the resale are not sufficient to defray the expenses thereof and also the expenses of the retaking, keeping, and storing the goods and the balance due upon the purchase price, the seller may recover the deficiency from the buyer or from any one who has succeeded to the obligations of the buyer.

Section 23. *Rights of Parties Where There Is No Resale.* Where there is no resale the seller may retain the goods as his own property without obligation to account to the buyer, except as provided in section twenty-five, and the buyer shall be discharged of all obligation.

Section 24. *Election of Remedies.* After the retaking of possession, as provided in section sixteen, the buyer shall be liable for the price only after a resale and only to the extent provided in section twenty-two. Neither the bringing of an action by the seller for the recovery of the whole or any part of the

price, nor the recovery of judgment in such action, nor the collection of a portion of the price shall be deemed inconsistent with a later retaking of the goods, as provided in section sixteen: but such right of retaking shall not be exercised by the seller after he has collected the entire price or after he has claimed a lien upon the goods or attached them or levied upon them as the goods of the buyer.

Section 25. *Recovery of Part Payments.* If the seller fails to comply with the provisions of sections eighteen, nineteen, twenty, twenty-one, and twenty-three after retaking the goods, the buyer may recover from the seller his actual damages if any, and in no event less than one-fourth of the sum of all payments which have been made under the contract with interest.

Section 26. *Waiver of Statutory Protection.* No act or agreement of the buyer before or at the time of the making of the contract nor any agreement or statement by the buyer in such contract shall constitute a valid waiver of the provisions of sections eighteen, nineteen, twenty, twenty-one and twenty-five, except that the contract may stipulate that, on such default of the buyer, as is provided for in section sixteen, the seller may rescind the conditional sale either as to all the goods or as to any part thereof for which a specific price was fixed in the contract. If the contract thus provides for rescission, the seller at his option may retake such goods without complying with or being bound by the provisions of sections seventeen to twenty-five, inclusive, as to the goods retaken, upon crediting the buyer with the full purchase price of those goods. So much of this credit as is necessary to cancel any indebtedness of the buyer to the seller shall be so applied and the seller shall repay to the buyer on demand any surplus not so required.

Section 27. *Loss and Increase.* After the delivery of the goods to the buyer and prior to the retaking of them by the seller, the risk of injury and loss shall rest upon the buyer. The increase of the goods shall be subject to the same conditions as the original goods.

Section 28. *Act Prospective Only.* This act shall not apply to conditional sales made prior to the time when it takes effect.

Section 29. *Rules for Cases Not Provided For.* In any case not provided for in this act, the rules of law and equity, including the law merchant, and in particular those relating to principal and agent, and to the effect of fraud, misrepresentation, duress or coercion, mistake, bankruptcy, or other invalidating cause, shall continue to apply to conditional sales.

Section 30. *Uniformity of Interpretation.* This act shall be so interpreted and construed as to effectuate

its general purpose to make uniform the law of those States which enact it.

Section 31. *Short Title.* This act may be cited as the Uniform Conditional Sales Act.

Section 32. *Inconsistent Laws Repealed.* Except so far as they are applicable to conditional sales made prior to the time when this act takes effect the following act shall be and is hereby repealed, to wit:

Act of June 7,
1915 (P. L. 806),
repealed.

The act, approved the seventh day of June, one thousand nine hundred and fifteen (Pamphlet Laws, eight hundred sixty-six), entitled "An act defining conditional sales, and regulating the recording and effect thereof, and providing penalties."

All other acts or parts of acts inconsistent with this act are repealed, but this act shall not be construed to repeal the act, approved the first day of May, one thousand nine hundred and twenty-three (Pamphlet Laws, one hundred and seventeen), entitled "An act concerning conditional sales of chattels attached or to be attached to realty, and regulating the recording and effect thereof; and providing remedies, and penalties."

Section 33. *Time of Taking Effect.* This act shall take effect the first day of September, one thousand nine hundred and twenty-five.

APPROVED—The 12th day of May, A. D. 1925

GIFFORD PINCHOT.

No. 326.

AN ACT

To enable any city of the first class owning and operating its own water works to require a water-meter to be installed upon every property supplied from such water works at the expense of the owner thereof, and providing that the cost of and charge for installing such water-meter shall be a lien upon such property with the same priority and enforceable in the same manner as a municipal claim.

Cities of first
class.

May require
owner to install
water-meter.

Lien against prop-
erty for cost of
water-meter.

Section 1. Be it enacted, &c., That from and after the passage of this act the municipal authorities of every city of the first class within this Commonwealth which now owns and operates or may hereafter acquire or construct and operate its own water works shall have the power to require the owner or owners of every separate property supplied from such water works to install or permit the installation of a water-meter or meters upon and for such property.

Section 2. The municipal authorities of any city of the first class aforesaid may require the owner of every property upon and for which a water-meter is