

right of possession or property may be thus reserved, notwithstanding the delivery of the goods to the buyer, or to a carrier, or other bailee, for the purpose of transmission to the buyer.

(2) Where goods are shipped and by the bill of lading the goods are deliverable to the seller or his agent, or to the order of the seller, or of his agent, the seller thereby reserves the property in the goods. But if, except for the form of the bill of lading, the property would have passed to the buyer on shipment of the goods, the seller's property in the goods shall be deemed to be only for the purpose of securing performance by the buyer of his obligations under the contract.

(3) Where goods are shipped and by the bill of lading the goods are deliverable to the order of the buyer or of his agent, but possession of the bill of lading is retained by the seller or his agent, the seller thereby reserves a right to the possession of the goods as against the buyer.

(4) Where the seller of goods draws on the buyer for the price and transmits the bill of exchange and bill of lading, together, to the buyer to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading if he does not honor the bill of exchange, and if he wrongfully retains the bill of lading he acquires no added right thereby. If, however, the bill of lading provides that the goods are deliverable to the buyer or to the order of the buyer, or is indorsed in blank, or to the buyer, by the consignee named therein, one who purchases in good faith, for value, the bill of lading, or goods from the buyer, will obtain the property in the goods, although the bill of exchange has not been honored; provided, that such purchaser has received delivery of the bill of lading, indorsed by the consignee named therein, or of the goods, without notice of the facts making the transfer wrongful.

Unrecorded conditional sale contract valid—against whom. This section and secs. 41 and 42 referred to in construing art. 21, sec. 71—see notes thereto. *Stieff v. Wilson*, 151 Md. 600.

See notes to sec. 36.

Unless it appears that the *only* purpose of the seller in taking bill of lading in his own name and sending it with draft attached, etc., was to secure performance of contract by buyer, the form of bill cannot be interpreted as intended only for such purpose. Seller held to have reserved both property in goods and right of possession thereof. Remedies of a seller upon buyer's refusal to accept goods. Where seller reserves property in goods by sending draft with bill of lading attached, and buyer declines to pay draft, whereupon seller leaves goods on dock and they are stored in a warehouse and there destroyed by fire, loss falls on seller. *Rylance v. Walker*, 129 Md. 481.

Prior to adoption of this section it had been uniformly held in Maryland that contracts of sale wherein vendor reserves title to property until contract price was paid were valid between vendor and vendee and as to all persons claiming under latter with notice, but that they were not binding as to *bona fide* purchasers without notice. *Praeger v. Implement Co.*, 122 Md. 308; *Stem v. Crawford*, 133 Md. 588.

This section referred to—see notes to secs. 36 and 37. *Agri. Mfg. Co. v. Atlantic Fertilizer Co.*, 129 Md. 47.

This section and sec. 40 held not to affect obligation of seller under a contract to deliver sugar to purchaser. *Edgar v. Imperial Ice Cream Co.*, 139 Md. 642.

See art. 14, sec. 41, and notes to sec. 22 (this article).

An. Code, 1924, sec. 42. 1912, sec. 42. 1910, ch. 346, sec. 39 (p. 279).

39. In the case of sale by auction :

(1) Where goods are put up for sale by auction in lots, each lot is the subject of a separate contract of sale.

(2) A sale by auction is complete when the auctioneer announces its completion by the fall of the hammer, or in other customary manner. Until such announcement is made, any bidder may retract his bid; and the