

504

No. , 1917.

A BILL

Concerning bills of lading and other documents relating to the sea-carriage of goods from any place in the State of New South Wales to any other place in the said State.

[MR. J. C. L. FITZPATRICK ;— *August, 1917.*]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of
5 the same, as follows :—

1. This Act may be cited as the "Sea-carriage of Goods Act, 1917." Short title.

2. This Act shall commence on the first day of January, one thousand nine hundred and eighteen. Commence-
ment of Act

Definition.

3. In this Act, "goods" includes every description of wares, merchandise, and things, except live animals.

Application of Act.

4. This Act shall apply only in relation to ships carrying goods from any one place in the State of New South Wales to any other place in the said State, and in relation to goods so carried, or received to be so carried, in those ships. 5

Certain clauses prohibited in bills of lading. cf. U.S. 1893, c. 105, ss. 1 & 2. N.Z. 1903, No. 96, s. 300. Commonwealth No. 14 of 1904, s. 5.

5. Where any bill of lading or document contains any clause, covenant, or agreement, whereby—

(a) the owner, charterer, master, or agent of any ship, or the ship itself, is relieved from liability for loss or damage to goods arising from the harmful or improper condition of the ship's hold, or any other part of the ship in which goods are carried, or arising from negligence, fault, or failure in the proper loading, stowage, custody, care, or delivery of goods received by them, or any of them, to be carried in or by the ship; or

(b) any obligations of the owner or charterer of any ship to exercise due diligence, and to properly man, equip, and supply the ship, to make and keep the ship seaworthy, and to make and keep the ship's hold, refrigerating and cool chambers, and all other parts of the ship in which goods are carried, fit and safe for their reception, carriage, and preservation, are in any wise lessened, weakened, or avoided; or

(c) the obligations of the master, officers, agents, or servants of any ship to carefully handle and stow goods, and to care for, preserve, and properly deliver them, are in any wise lessened, weakened, or avoided,

that clause, covenant, or agreement shall be illegal, null and void, and of no effect. 35

Construction and jurisdiction. Commonwealth No. 14 of 1904, s. 6.

6. All parties to any bill of lading or document relating to the carriage of goods from any place in the State of New South Wales to any other place in the said State, shall be deemed to have intended to contract according to the laws in force in the said State, and any stipulation or agreement to the contrary, or purporting to oust or lessen 40

lessen the jurisdiction of the courts of the Commonwealth or of the said State in respect of the bill of lading or document, shall be illegal, null and void, and of no effect.

7. The owner, charterer, master, or agent of a ship shall not— Penalties. Ibid. s. 7.

- (a) insert in any bill of lading or document any clause, covenant, or agreement declared by this Act to be illegal; or
- (b) make, sign, or execute any bill of lading or document containing any clause, covenant, or agreement declared by this Act to be illegal.

Any such owner, charterer, master, or agent who contravenes any of the provisions of this section shall be liable to a penalty not exceeding *one hundred pounds*.

8. (1) In every bill of lading with respect to goods a warranty shall be implied that the ship shall be, at the beginning of the voyage, seaworthy in all respects, and properly manned, equipped, and supplied. Implied clauses in bills of lading. Ibid. s. 8.

(2) In every bill of lading with respect to goods, unless the contrary intention appears, a clause shall be implied whereby, if the ship is at the beginning of the voyage seaworthy in all respects, and properly manned, equipped, and supplied, neither the ship nor her owner, master, agent, or charterer shall be responsible for damage to or loss of the goods resulting from—

- (a) faults or errors in navigation, or
- (b) perils of the sea or navigable waters, or
- (c) acts of God or the King's enemies, or
- (d) the inherent defect, quality, or vice of the goods, or
- (e) the insufficiency of package of the goods, or
- (f) the seizure of the goods under legal process, or
- (g) any act of omission of the shipper or owner of the goods, his agent or representative, or
- (h) saving or attempting to save life or property at sea, or
- (i) any deviation in saving or attempting to save life or property at sea.