

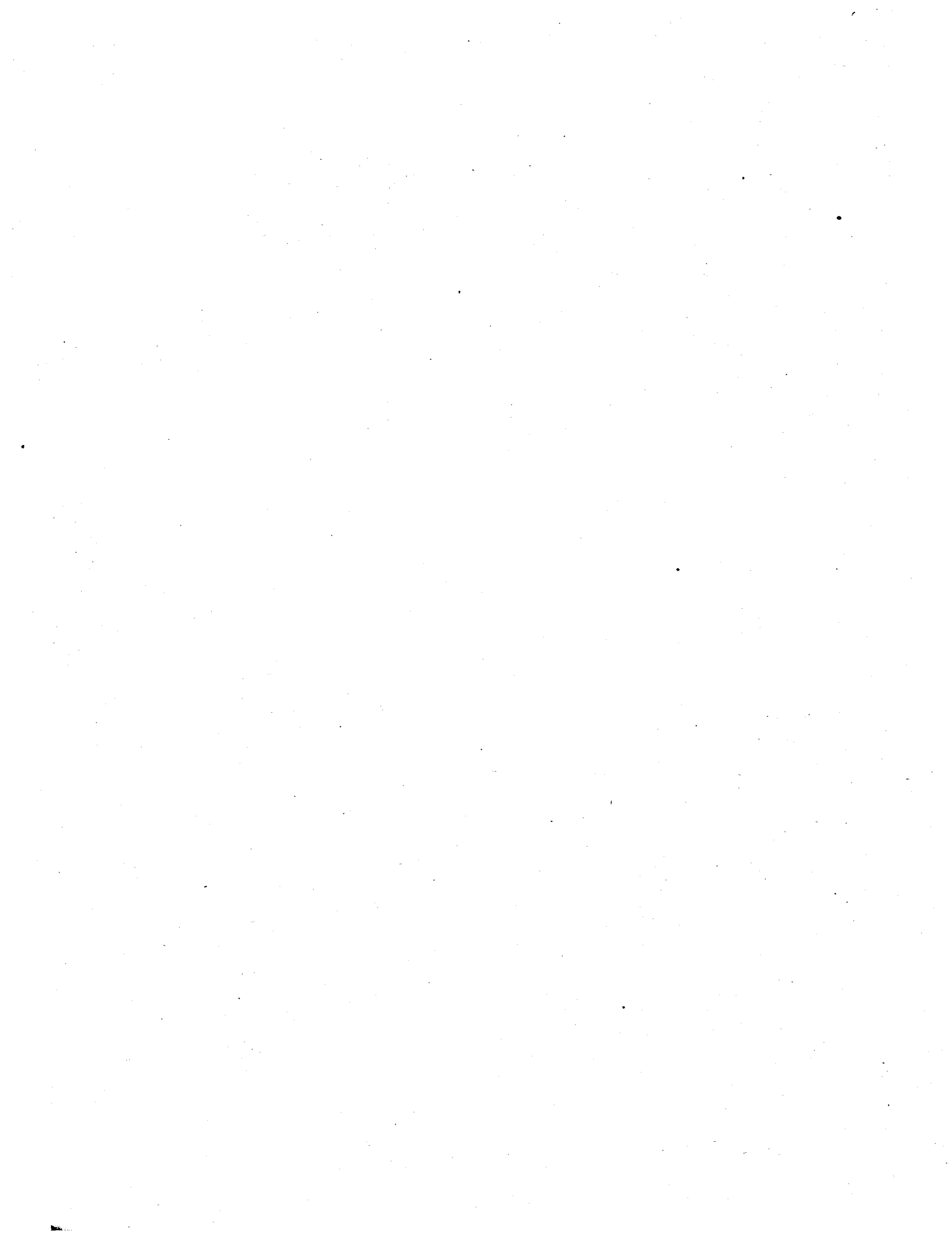
TASMANIA.

THE TASMANIAN STATE SHIPPING
ACT, 1920.

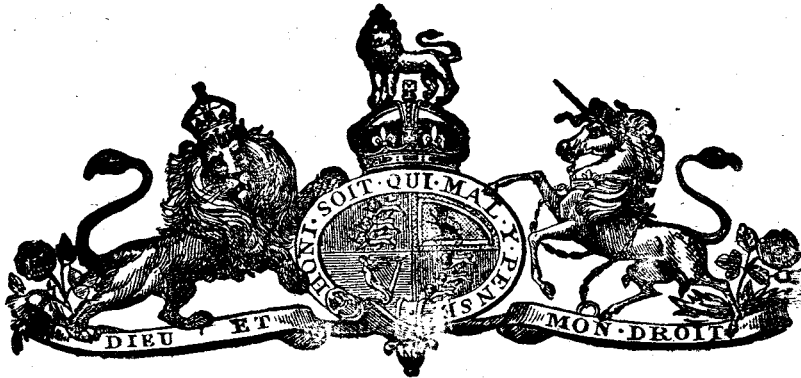
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T A S M A N I A



1920.

ANNO UNDECIMO

GEORGII V. REGIS.

No. 3.

AN ACT to authorise the Carrying on by the State of Tasmania of the Business of Shipping, and for other purposes.

A.D.
1920.
—

[2 September, 1920.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

PART I.

PRELIMINARY.

1—(1) This Act may be cited as “The Tasmanian Government Shipping Act, 1920,” and shall be deemed to have come into operation on the Tenth day of May, One thousand nine hundred and twenty.

Short title, commencement, and Parts of Act.

(2) This Act is divided into Parts, as follows :—

Part I.—Preliminary.

Part II.—The carrying on of Shipping business by the State.

Part III.—Finance.

Part IV.—Powers and liabilities of General Manager

Part V.—General.

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Interpretation.

2 In this Act, unless the context otherwise indicates—

“General Manager” means the General Manager of the Tasmanian Government Shipping Department appointed under or for the purposes of this Act:

“Minister” means the Chief Secretary for the time being of the State, or other responsible Minister of the Crown for the time being charged with the administration of this Act:

“Permanent Officer” means an officer on the permanent staff of the Tasmanian Government Shipping Department, remunerated by an annual salary, but shall not include a master, officer, or other member of a ship’s company:

“Ship” means any vessel used in navigation not ordinarily propelled by oars only:

“The Department” means the Tasmanian Government Shipping Department established by this Act.

“Treasurer” means the Treasurer, for the time being, of the State:

“Vessel” means any ship, boat, or any other description of vessel used for any purpose on the sea or in navigation.

PART II.

THE CARRYING ON OF SHIPPING BUSINESS BY THE STATE.

The Tasmanian Government Shipping Department.

Tasmanian Government Shipping Department established.

3 For the purpose of enabling the State to carry on the business of shipping, and for the purpose of doing all such things as are incidental or conducive thereto, there is hereby established a department, to be called “The Tasmanian Government Shipping Department,” and such department shall be administered and managed under the Minister by an officer (hereinafter called “the General Manager”), who shall be appointed by the Governor.

General Manager and Officers.

General Manager, appointment.

4—(1) For the purposes of this Act the Governor may from time to time appoint some fit and proper person to be the General Manager, and may on the happening of any vacancy in the office of General Manager appoint a person to the vacant office.

(2) Any person to be so appointed may be appointed for the term of Four years.

(3) A General Manager may from time to time be reappointed for any further term not exceeding Four years.

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(4) The provisions of Sections Eight and Ten of "The Public Service Act, 1918," shall, *mutatis mutandis*, apply to the General Manager, and shall be deemed to be incorporated with this Act

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(5) The General Manager shall be paid such salary as may be fixed by the Governor upon the making of the appointment, and the Governor may, upon making any appointment provide for a yearly increase of salary after the First year.

(6) The General Manager shall have the powers and authority, and shall discharge and exercise the duties and functions by this Act vested in or imposed or conferred upon him.

5 The General Manager is hereby constituted a corporation sole under the style of "The General Manager of Tasmanian Government Shipping," and by that name shall have perpetual succession and a seal of office, and be capable of suing and being sued, and shall have power to take, purchase, and sell goods, chattels, and other property for any of the purposes of this Act, subject to the restrictions herein contained. All courts, judges, and persons acting judicially shall take judicial notice of the seal of office and of the appointment and signature of the General Manager.

General Manager
a corporation sole.

6—(1) The Governor may from time to time, appoint some person to be the Deputy General Manager, and may, on the recommendation of the General Manager, from time to time appoint such other permanent officers as shall be necessary for the business of the Department.

Deputy General
Manager and per-
manent officers,
appointment.

(2) Subject to any regulations made under this Act such Deputy General Manager and other permanent officers shall hold office during pleasure only.

(3) Such Deputy General Manager and other permanent officers shall be paid such salaries as may be fixed from time to time by the Governor.

(4) Any officer of the Public Service of the State who becomes General Manager, Deputy General Manager, or other permanent officer of the Department shall retain all his existing and accruing rights.

7—(1) With respect to the Deputy General Manager, the following provisions shall apply :—

When Deputy
to act.

- i. He shall act during the illness, suspension, or absence of the General Manager, or while the office of General Manager for any reason remains vacant, and while so acting shall have all the powers and perform all the duties of the General Manager :
- ii. He may also act under authority delegated in that behalf by the General Manager, and while so acting he shall act in the name and on behalf of the General Manager :

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Power to act not to be questioned.

iii. The fact that he so acts shall be sufficient evidence of his authority so to do, and his appointment and signature shall be judicially noticed, and no person shall be concerned to enquire whether any occasion has arisen requiring or authorising him so to do, or be affected by notice, or by the fact that no such occasion has arisen.

Delegation by General Manager.

(2) The General Manager may from time to time delegate to the Deputy General Manager all or any of his powers or functions under this Act (except this power of delegation).

Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power or function by the General Manager.

(3) All deeds and instruments which, if executed by the General Manager would be signed by him and sealed with his seal of office, shall, when executed by the Deputy General Manager, be signed thus :—

“The General Manager of Tasmanian Government Shipping.
By A.B.,
Deputy General Manager,”

and be sealed with the General Manager's seal of office.

Disabilities.

8 The General Manager or Deputy General Manager shall not act as director or auditor, or in any other capacity take part in the management of any bank, joint stock company, or other financial institution, or of any trade or business, or acquire or hold, directly or indirectly, any shares in any shipping company, and in any such case shall be disqualified from holding the office of General Manager or Deputy General Manager, as the case may be.

Not to be personally interested in contracts, &c.

9 A General Manager or Deputy General Manager who—

i. Is in anywise concerned or interested in any bargain or contract made by or on behalf of the Department, or the Crown : or

ii. In anywise participates, or claims to be entitled to participate in the profit thereof, or in any benefit or emolument arising from the same—

shall thereby vacate his office, and shall also be guilty of a misdemeanour, and shall be liable to a penalty of not more than Five hundred Pounds or to imprisonment for a term of not more than Three years, or to both of these punishments.

Business Control and Property.

Description of business of Department.

10 The business to be carried on by the Department shall include :—

i. The purchasing, chartering, hiring, equipping, fitting out, reselling, and letting out to hire of ships and vessels :

ii. The sailing, managing, controlling, and operating of ships and vessels :

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- iii. The carrying or conveying and transmitting of mails, goods, and passengers, or any of them, by sea : A.D. 1920.
- iv. The purchasing, renting, hiring, or otherwise acquiring, occupying, selling, letting, or otherwise disposing of, constructing, altering, pulling down, repairing, or removing any houses, land, wharves, piers, stages, warehouses, sheds, stores, or other hereditaments, premises, estates, effects, or any grants, subsidies, concessions, real or personal or other property of whatsoever kind, tenure, or description required for the purposes of this Act :
- v. The purchase of the business, goodwill, or other interest of any person, partnership, or company :
- vi. The establishment of agencies within or outside the State :
- vii. The establishment of branches of the Department within or outside the State :
- viii. The acting as agents for any person, partnership or company, in connection with the operating of ships or cargo :
- ix. The doing of all other acts and things which may be necessary, incidental, or conducive to the attainment of the objects before stated, or any of them, and of such other objects as may be consistent with the ordinary business of an owner or charterer, worker, or manager of ships, including that of shipping brokers :

11 The General Manager shall, subject to the provisions of this Act, have the management, control, and maintenance of the Department, and of the business to be conducted by the Department, and shall, in addition to any other powers conferred upon him by this Act, have power to do all or any of the things mentioned in the last preceding section : Provided, however, that the General Manager shall not exercise such power with respect to any of the matters mentioned in Paragraphs i., iv., v., and vii. of such section without the consent of the Minister, and provided also that no ship belonging to the Department shall, without the consent of the Minister, be employed by the General Manager in trading, otherwise than between places in the Commonwealth of Australia.

General Manager
to control
Department.

12 All land acquired under this Act for the purposes of the Department shall be vested in His Majesty.

Vesting of land
and other
property.

All other property belonging to or acquired for the purposes of the Department shall be vested in the Minister, who shall hold the same to and for the use of His Majesty.

13 All actions, suits, or other proceedings at law or in equity, arising out of or in connection with the business or operations of the Department or in connection with any property or effects belonging to the Department or vested in the Minister, may be commenced and prosecuted by or against "The General Manager of Tasmanian Government Shipping," as the plaintiff or defendant therein, as the case may

Actions arising
out of operations
of the Depart-
ment.

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be, without otherwise naming him; and "The General Manager of Tasmanian Government Shipping" shall recover or be liable to, as the case may be, the damages and costs of any such action, suit, or other proceedings.

Application of
"The Railway
Passengers'
Actions Act,
1906," 6 Ed. VII.
No. 10.

14 The provisions of "The Railway Passengers' Actions Act, 1906," shall, *mutatis mutandis*, apply to any action which shall be brought against the General Manager for injuries occasioned by any wrongful act, neglect, or default of such General Manager as carrier of passengers, provided the defendant in such action gives to the plaintiff the notice mentioned in Section Three of that Act.

PART III.

FINANCE.

Expenditure of
money appropri-
ated by Parlia-
ment.

15 All moneys appropriated by Parliament for the maintenance or management of the business of the Department, and for all purposes in connection therewith, shall, subject to the provisions of this Act and to any Act dealing with the appropriation of any such moneys, be expended under the control and management of the General Manager.

Revenue received
to be paid into
Consolidated
Revenue.

Audit Act to
apply to General
Manager and
officers.

16—(1) All earnings and revenue of the General Manager under this or any other Act shall be collected and received by him on account of, and shall be paid into the Consolidated Revenue.

(2) The provisions of "The Audit Act, 1918," and of any other Act relating to the collection and payment of public moneys, and the audit of the public account, shall, save as in this Act otherwise provided, apply to the General Manager and to all officers of the Department.

Accounts to be
kept and balance-
sheets prepared.

17—(1) The General Manager shall cause full and faithful accounts to be kept in relation to the affairs and business of the Department of—

- i. All moneys received and expended under this Act; and
- ii. All assets and liabilities; and
- iii. All profits and losses.

(2) The General Manager shall cause a balance-sheet for each financial year to be prepared, together with a statement of accounts (including a capital account and a profit and loss account) for the Department.

Such balance-sheet and statement shall be so prepared as to show fully and faithfully the financial position of the Department and the financial result of the operations of the year.

Tasmanian State Shipping.

Such balance-sheet and statement shall be submitted to the Auditor-General for audit, and shall be certified by him either wholly or with such exceptions as may be necessary, and when so audited and certified shall be published in the "Gazette." A.D. 1920.

The balance-sheet and statement of accounts duly audited, together with a report by the General Manager on the operations of the Department for the year, shall, within Fourteen days after the commencement of the next ensuing session, be laid by the Minister before Parliament.

18—(1) Where at the end of any financial year the profit and loss account of the Department, as submitted by the General Manager and certified by the Auditor-General, shows a profit, then, so far as such profit shall thereunto extend, the Treasurer shall appropriate out of the Consolidated Revenue, and pay into a Reserve Fund, to be created by him, and to be called "The Tasmanian Government Shipping Reserve Fund," in respect of each and every ship then belonging to the Department, such a sum of money as the General Manager shall certify as proper to be reserved for that year for depreciation of such ship: Provided that such sum in the case of each such ship shall not be less than Six, nor more than Fifteen, per centum of the cost price thereof to the Department. Reserve Fund to be created.

(2) All moneys which may be appropriated to the said Reserve Fund pursuant to this section, with all accumulations of interest thereon, shall be invested in such manner as the Governor may determine.

(3) Such Reserve Fund shall be applicable, with the consent of the Minister, for any One or more of the following purposes:—

- i. For meeting any extraordinary expenditure incurred by the General Manager for repairs to any ship, which the General Manager shall certify is not properly chargeable to maintenance:
- ii. For meeting any claim against the General Manager, or the Department, or any ship of the Department, in connection with any collision between a ship of the Department and any other ship:
- iii. For meeting any claim against the General Manager, or the Department, or any ship of the Department, for towage, salvage, or general average contribution:
- iv. For replacing any ship lost, or destroyed by fire, or otherwise, to the extent to which such loss is not covered by insurance:
- v. For replacing any ship sold by the General Manager on behalf of the Department:
- vi. For purchasing additional ships for the Department:
- vii. For meeting any other expenditure which the Minister shall, on the recommendation of the General Manager, approve as being a proper expenditure to be met out of such Reserve Fund.

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(4) There shall also be paid into the said Reserve Fund from time to time by the General Manager, all such sums of money as shall have been received by him as or in respect of the purchase money of any ship or ships sold by him on behalf of the Department.

All such sums of money as aforesaid shall form part of the said Reserve Fund, and shall be available for the purposes mentioned in Subsection (3) of this section.

PART IV.

POWERS AND LIABILITIES OF GENERAL MANAGER.

Powers and
liabilities of Gen-
eral Manager.

19—(1) Without limiting the general powers conferred upon him by this Act, the General Manager may from time to time do all or any of the following things in relation to the business of the Department:—

- i. He may appoint and discharge, on behalf of the Department, masters and officers of ships and other members of a ship's company, provided, however, that nothing herein contained shall be deemed to interfere with or abridge the power of the master or other officer of any ship of the Department to exercise any authority usually exercised by the master or other officer of a ship in connection with the appointment, employment, or discharge of any member of a ship's company:
- ii. He may engage, employ, and discharge stevedores, tally clerks, workmen, mechanics, labourers, and other persons for or in connection with the loading or unloading of any ship, or otherwise, howsoever, in connection with the business of the Department, except permanent officers of the Department:
- iii. He may from time to time make and issue rules and regulations to be observed by masters and officers of ships belonging to the Department, provided that Section Forty-four of "The Interpretation Act, 1906," shall not apply to any rules or regulations made under the authority of this provision:
- iv. He may fix, alter, or revoke scales of fares, rates, and charges to be paid—
 - (a) For passengers carried on any ship; and
 - (b) For goods so carried or received on or into, or stored in or delivered from, or stacked, or sorted upon any wharf, pier, jetty, store, shed, or yard belonging to or occupied by the Department; and
 - (c) For demurrage of ships.

Provided, however, that the General Manager may, from time to time, fix special fares, rates, and charges to be paid in lieu of ordinary

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fares, rates, and charges, upon special occasions or for such times and A.D. 1920
for such voyages as he may think fit :

v. He may from time to time declare certain kinds of goods, of a nature liable to injury, or goods over and above a certain value, to be special goods :

And every person before delivering any special goods for shipment by any vessel shall first give to the person receiving the same on behalf of the Department, for shipment or transmission, a statement in writing declaring the nature and value of such special goods, and the person so receiving same for shipment or transmission as aforesaid shall give a receipt therefor, specifying the nature and value so declared :

And no person, unless he has first delivered such statement and obtained such receipt, shall be entitled to recover, in respect to any loss or damage of or to any such special goods, any greater sum in respect of any parcel in which any such special goods are packed than shall be fixed by the General Manager with respect to the particular kind of special goods contained in such parcel :

vi. He may, from time to time, determine what additional sum over and above the charges payable in respect of ordinary goods shall be payable in respect of special goods in proportion to the value thereof, or in respect of dangerous goods :

vii. He may determine certain rates for the carriage of certain goods at owner's risk : Provided that such goods shall be carried at the risk of the General Manager upon the owner undertaking to pay such additional rate for the carriage of such goods as the General Manager may determine :

viii. He may make and impose such conditions and stipulations with respect to any of the preceding matters as he may deem advisable :

ix. He may insure any ship or other property belonging to the Department, or any goods delivered to him for carriage or otherwise, against loss or damage from any cause whatsoever.

(2) Notwithstanding anything contained in Subsection (1), if at the expiration of any period of Two consecutive years after the commencement of the business of the Department, the profits of the Department in each year of such period as shown by the yearly profit and loss accounts, have been substantially more than sufficient to meet the payments into the Reserve Fund provided for by Subsection (1) of Section Eighteen of this Act, the Minister, if he considers it expedient so to do, may in writing request the General Manager to submit to him in writing, a scheme for the next ensuing year providing for a reduction in the then existing scale of fares, rates, and charges : Provided, however, that no such reduction shall be to such an extent as will, in the

Minister may in certain events require General Manager to submit a scheme for reduction of fares, rates, and charges.

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opinion of the General Manager, operate in such a way as to render it improbable that the profits of the Department for the ensuing year will be sufficient to meet the ordinary expenditure of the Department and the payments into the Reserve Fund for that year.

(3) If the Minister approves of such scheme he may direct the General Manager to take all necessary steps to bring the reduced scale of rates, fares, and charges into operation and effect for and during such ensuing year.

(4) If the Minister does not approve of any scheme submitted by the General Manager, he may himself transmit to the General Manager an alternative scheme for a reduced scale, and thereupon the General Manager shall take all necessary steps to bring the reduced scale into operation and effect for and during such ensuing year.

For the purposes of this Act the expression "Goods" shall include merchandise, specie, bullion, and live stock; but the General Manager shall not in any case be bound to carry live stock, except at the owner's risk, and upon such terms and conditions as the General Manager shall think fit to impose.

Goods may be sold for charges in case of refusal to pay.

20—(1) If any person fails to take delivery of, or to pay the rates or charges payable by him on any goods in the custody or under the control of the General Manager, the General Manager may order any such goods to be forthwith sold: Provided, however, that except in the case of perishable goods, or goods which are likely to deteriorate by being kept, no goods shall be so sold until the expiration of Fourteen days after demand has been made by some person duly authorised to collect the said rates or charges upon the person liable to pay the same, and such last-mentioned person has failed to pay such rates or charges.

(2) The proceeds of any such sale shall be used, first, for paying the expenses of such sale and the said rates or charges, and the balance, if any, shall be paid over to the owner.

(3) A notice in writing, that any rates or charges are due in respect of any goods, signed by any officer of the Department or any person duly authorised to collect such rates or charges, and served upon the consignee or consignor of such goods, or left at the office or last known address of such consignee or consignor, shall be deemed to be a demand within the meaning of this section.

Goods left without owner may be sold.

21 If any goods are left on a ship or on any premises used, occupied by, or belonging to the Department, and the owner thereof, or the person liable for the charges thereon, is not known, the General Manager may cause public notice to be given that such goods will be sold upon a day named in such notice, not less than One month from the publication thereof; and if such goods are not removed, and the charges thereon paid before such day, the said goods may be sold, and the balance of the proceeds of such sale, after paying the expenses of such sale and the rates or charges upon such goods, shall be paid into and form part of the Consolidated Revenue.

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22 No matter or thing done and no agreement entered into by the General Manager or any permanent officer of the Department, or other person on his behalf or under his directions, shall, if the matter or thing was done or the agreement was entered into *bonâ fide* for the purposes of this Act, subject the General Manager or any such officer or person to any personal liability in respect thereof.

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Protection of General Manager and officers from personal liability.

23 Nothing in this Act contained shall operate so as to charge or make the General Manager liable further or in any other case than where, according to law, carriers of passengers and goods by sea would be liable; and the General Manager shall at all times be entitled to the benefit of every protection and privilege which may be possessed or enjoyed by such carriers.

Liability of General Manager as a carrier.

PART V.

GENERAL.

Offences and Legal Procedure.

24 If any person knowingly and wilfully makes a false statement as to the nature, quantity, or value of any goods delivered to any person authorised by the General Manager to receive the same, in any bill of lading or other document relating to such goods, he shall be liable to a penalty not exceeding Fifty Pounds.

Penalty for giving false bill of lading.

25 Whosoever knowingly and wilfully does, or causes, or procures to be done any of the following things—

Penalty for alteration or improper use of passenger tickets.

- i. Alters any passenger ticket with intent to avoid payment of the proper fare or any part thereof:
- ii. Sells, or offers for sale, or transfers any free passenger ticket, or permits any person other than the person to whom such free pass passenger ticket is issued to make use of any such ticket:
- iii. Uses or attempts to use any passenger ticket, the time for the proper use of which has expired:
- iv. Sells or transfers to any person a passenger ticket which has been used for the whole or any part of the journey for which such ticket is issued, or travels or attempts to travel with any such ticket sold or transferred by any such person—

shall be liable to a penalty not exceeding Twenty Pounds.

26 All complaints for offences against the provisions of this Act, and all penalties, fines, and forfeitures imposed by or under the provisions of this Act, may be heard, determined, recovered, and enforced in a summary way by and before a police magistrate, or any Two or more justices of the peace in the mode prescribed by "The Justices Procedure Act, 1919," the provisions of which Act shall apply.

Offences to be dealt with summarily.

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Regulations.

Regulations.

27 The General Manager may from time to time, with the approval of the Minister, make regulations for all or any of the following purposes, that is to say—

- I. For the conduct of the business of the Department :
- II. For prescribing what books and accounts shall be kept and in what form :
- III. For prescribing the qualifications required in all applicants for positions as permanent officers in the Department :
- IV. For prescribing and regulating the functions and duties to be performed by the permanent officers of the Department, and the discipline to be observed in the performance of such duties, and the granting of leave of absence :
- V. For imposing a penalty not exceeding Ten Pounds for the breach of any regulation : and
- VI. For any other purpose that the General Manager deems expedient for the efficient administration of this Act, or for which, in his opinion, regulations are contemplated or required by this Act.