



CHAPTER xl

An Act to consolidate with amendments the statutory powers of the Falmouth Docks and Engineering Company to confer further powers upon the Company and for other purposes. [29th July 1959.]

WHEREAS—

(1) By the Falmouth Docks Acts 1859 to 1958 the Falmouth Docks and Engineering Company (hereinafter called “the Company”) were incorporated and authorised to construct and maintain a tidal harbour and certain docks and other works at and in the neighbourhood of Falmouth in the county of Cornwall and to exercise various other powers:

(2) The authorised share capital of the Company is three million five hundred thousand pounds and the issued capital of the Company consists of—

two million seven hundred and one thousand one hundred and seventy-nine ordinary shares of one pound each; and

two hundred and ninety-eight thousand eight hundred and twenty-one preference shares of one pound each:

(3) The Company are authorised to borrow on mortgage of their undertaking or raise by the issue of debenture stock (but have not so borrowed or raised) any further sum or sums not exceeding in the whole one-half of the amount actually paid up on any shares which at the time of borrowing have been issued by the Company:

(4) It is expedient to consolidate with amendments the statutory powers of the Company and to confer upon the Company such other powers in relation to their undertaking as are in this Act contained:

(5) It is expedient that the other provisions in this Act contained be enacted:

(6) The purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Falmouth Docks Act 1959.

Division of Act into Parts.

2. This Act is divided into Parts as follows:—

Part I.—Preliminary.

Part II.—Works and lands.

Part III.—General powers and duties of the Company.

Part IV.—Rates and dues.

Part V.—Financial.

Part VI.—Administrative.

Part VII.—Protective provisions and savings.

Part VIII.—Miscellaneous.

Incorporation of Acts.

3.—(1) The following enactments so far as the same are applicable to the purposes and are not inconsistent with the provisions of this Act are hereby incorporated with this Act (namely):—

(a) the Companies Clauses Consolidation Act 1845 (except the provisions thereof with respect to the conversion of borrowed money into capital):

Provided that the said Act of 1845 shall have effect as if—

(i) in section 11 the words “ Except as otherwise provided by the conditions of issue thereof ” were inserted at the beginning of that section;

(ii) in section 15 for the words “ on demand ” there were substituted the words “ within two months after delivery thereof ”;

(iii) in section 67 for the word “ advertisement ” there were substituted the word “ notice ”; and

(iv) in section 71 the word “ public ” were omitted and for the words “ by advertisement ” there were substituted the words “ to the shareholders ”;

- (b) the Companies Clauses Act 1863 (except sections 17 to 21 and Part IV thereof):

Provided that the said Act of 1863 shall have effect as if—

(i) in section 14 the words “ but if in any year ” to the end of the section were omitted;

(ii) in section 22 the words “ and to the same amount as ” were omitted;

(iii) in section 25 the words “ or the sum of ten thousand pounds whichever of the two last-mentioned sums is the smaller sum ” were omitted; and

(iv) in section 31 after the words “ other than ” there were inserted the words “ in the case of holders of perpetual debenture stock ”;

- (c) the Lands Clauses Acts except the provisions with respect to the taking of lands otherwise than by agreement and except sections 127 to 132 and 150 and 151 of the Lands Clauses Consolidation Act 1845 and section 5 of the Lands Clauses Consolidation Acts Amendment Act 1860;

- (d) the provisions of the Harbours Clauses Act 1847 (except sections 6 to 13 84 to 88 and 97 and 98):

Provided that—

(i) sections 16 to 19 of the said Act of 1847 shall not be enforced with respect to the Company unless and except only so far as the Minister shall require the Company to provide and maintain a lifeboat and a tide and weather gauge; and

(ii) nothing in the said Act of 1847 shall require or authorise the harbour master or other officer to require the dismantling of a seaplane or any part thereof or the making of any alteration whatever to the structure or equipment of a seaplane;

- (e) the Railways Clauses Consolidation Act 1845 (except the provisions thereof relating to the construction of a railway and sections 162 and 163):

Provided that nothing in the said Act of 1845 or in this Act shall constitute the Company a railway company within the meaning of the Railway and Canal Traffic Act 1888.

PART I
—cont.

(2) In the construction of the enactments so incorporated with this Act the expression “special Act” shall be read as a reference to this Act and the expression “company” shall mean the Company.

Interpretation.

- 4.—(1) In this Act unless the context otherwise requires—
- “all property vested in the Company” includes the docks works buildings lands estates property moneys effects claims and demands whatsoever owned possessed acquired seised vested held or otherwise howsoever entitled by the Company at the passing of this Act;
 - “the authorised works” means the works authorised and constructed by the Company under the former Acts;
 - “the commissioners” means the Falmouth Harbour Commissioners;
 - “the Company” means the Falmouth Docks and Engineering Company;
 - “the deposited plans” means the plans deposited in connection with any of the Bills for the former Acts;
 - “the directors” means the directors for the time being of the Company;
 - “the dock estate” means the tidal harbour and any docks works and lands for the time being belonging to the Company;
 - “enactment” includes this Act and any general or local Act order byelaw or regulation for the time being in force;
 - “the existing capital” means the ordinary shares of the Company amounting to two million seven hundred and one thousand one hundred and seventy-nine pounds and the preference shares of the Company amounting to two hundred and ninety-eight thousand eight hundred and twenty-one pounds created and issued at the date of the passing of this Act;
 - “the former Acts” means the Falmouth Docks Acts 1859 to 1958;
 - “the Harbours Clauses Act 1847” means the Harbours Docks and Piers Clauses Act 1847;
 - “land” includes land covered with water any interest in land and any easement or right in to or over land;
 - “the Lands Clauses Acts” means the Lands Clauses Acts as amended by the Acquisition of Land (Assessment of Compensation) Act 1919 by Part V of the Town and Country Planning Act 1947 by the Lands Tribunal Act 1949 and by the Town and Country Planning Act 1954;

“ the Minister ” means the Minister of Transport and Civil Aviation;

“ seaplane ” includes a flying-boat and any other aircraft designed to float or manoeuvre on the water;

“ signed plan ” means the plan signed in quadruplicate by the Right Honourable Sir Gordon Touche the chairman of the committee of the House of Commons to whom the Bill for this Act was referred one copy of which plan has been deposited in each of the following offices:—

(a) the office of the Clerk of the Parliaments House of Lords;

(b) the Private Bill Office of the House of Commons;

(c) the principal office of the Company; and

(d) the office of the Ministry of Transport and Civil Aviation;

“ telegraphic line ” has the same meaning as in the Telegraph Act 1878;

“ the tidal harbour ” means the tidal harbour of the Company comprising so much of the land coloured red on the signed plan as is shown by cross-hatching;

“ the undertaking ” means the undertaking of the Company as for the time being authorised and includes all property vested in the Company;

“ vessel ” includes any ship boat lighter and craft of every kind and whether navigated by steam or otherwise and also (except in section 52 (Harbour rates on shipping) of this Act) any seaplane on the surface of the water.

(2) Except where the context otherwise requires references in this Act to any enactment shall be construed as references to that enactment as applied extended amended or varied by or by virtue of any subsequent enactment including this Act.

5. Notwithstanding the repeal effected by section 108 (Repeal) of this Act—

Continued
incorporation
of Company.

(1) the Company shall continue to be incorporated by the name of the Falmouth Docks and Engineering Company and by that name shall continue and be a body corporate with perpetual succession and a common seal and by that name may sue and be sued and have power to purchase take on lease hold and dispose of land and other property for the purposes but subject to the restrictions of this Act and to put into execution the provisions of this Act so far as they are to be executed by the Company;

(2) all certificates sales transfers and dispositions before the passing of this Act made or executed with respect to

PART I
—cont.

- any shares shall for the purposes of this Act remain in full force and continue and be available in all respects;
- (3) all resolutions orders and proceedings of general meetings and boards of directors which immediately before the passing of this Act were binding on the Company or their shareholders directors officers or servants or any of them shall remain in full force and continue and be in like manner and to the like extent binding on the Company and their shareholders directors officers and servants accordingly;
- (4) the directors officers auditors and servants of the Company who held office or were in the employment of the Company immediately before the passing of this Act shall continue to hold office or to be in the employment of the Company on the same terms and conditions in all respects as if this Act had not been passed.

PART II

WORKS AND LANDS

Works etc. to continue vested in Company.

6.—(1) Notwithstanding the repeal effected by section 108 (Repeal) of this Act the lands acquired by the Company under the powers conferred by the former Acts and the authorised works shall continue to be vested in the Company.

(2) The Company may within the limits of authority defined in section 24 (Limits) of this Act maintain repair renew alter enlarge improve and extend the said works or any of them.

Subsidiary works.

7. The Company within the limits of deviation shown upon the deposited plans may from time to time make and maintain for the purposes of the authorised works all necessary or convenient cuts channels locks dock entrances quays wharves and piers and they may also for the general purposes of their undertaking (including the accommodation of vessels and of traffic and persons frequenting the tidal harbour and works of the Company) make erect lay down provide and maintain upon any lands of the Company within the limits of authority defined in section 24 (Limits) of this Act all necessary or convenient jetties slipways shipping places landing-places floats groynes walls rails sidings junctions turntables approaches roads gates warehouses sheds hangars repairing yards and works telephonic telegraphic electrical pumping and sluicing works and apparatus tanks pipes drains culverts sluices staiths stairs stages gantries coal and other tips cranes lifts hoists drops dolphins mooring posts buoys and other works buildings plant machinery appliances and conveniences:

Provided that the Company shall not—

- (a) use any telephonic or telegraphic works and apparatus made or maintained under the provisions of this section

for the purpose of transmitting any telegram which is within the exclusive privilege conferred upon the Postmaster-General by the Telegraph Act 1869;

PART II
—cont.

(b) make any works under the provisions of this section on or under any part of the public highway in the borough of Falmouth which leads from Bar Road under the railway to Castle Hill.

8. For the purposes of tolls rates and charges and for all other purposes the authorised works shall be deemed to form part of the undertaking and of the dock estate.

Works to
form part of
undertaking.

9. So much of the works authorised and constructed by the Company under the former Acts or this Act and of the lands reclaimed by means of such works as are not situate within the parish of Falmouth in the borough of Falmouth shall for all purposes be deemed to be situate within the said parish and borough.

Certain works
and reclaimed
lands to be
within parish
and borough
of Falmouth.

10. Nothing in this Act shall authorise the execution of any works on over or under tidal lands below high-water mark of ordinary spring tides except in accordance with plans and sections approved by the Minister and subject to such conditions and restrictions as the Minister may prescribe before such works are begun.

Works below
high-water
mark.

11.—(1) The Company shall at or near such part of any work authorised and constructed by the Company under the former Acts or this Act as shall be below high-water mark of ordinary spring tides during the whole time of the construction or extension of the same exhibit and keep burning every night from sunset to sunrise such lights (if any) and take such other steps for the prevention of danger to navigation as the Minister shall from time to time require or approve.

Lights on
works during
construction
alteration
etc.

(2) If the Company fail to comply in any respect with the provisions of this section they shall be liable on summary conviction to a fine not exceeding twenty pounds and in the case of a continuing offence to an additional fine not exceeding two pounds for every day on which after conviction thereof they so fail.

12.—(1) The Company shall at or near the outer extremity of such of the works authorised and constructed by the Company under the former Acts or this Act as are situated below high-water mark of ordinary spring tides exhibit and keep burning every night from sunset to sunrise such lights (if any) and take such other steps for the prevention of danger to navigation as the Corporation of Trinity House of Deptford Strond shall from time to time direct.

Company to
exhibit
lights.

PART II
—cont.

(2) If the Company fail to comply in any respect with the provisions of this section they shall be liable on summary conviction to a fine not exceeding twenty pounds and in the case of a continuing offence to an additional fine not exceeding two pounds for each day on which the offence is continued after conviction thereof.

Provision
against
danger to
navigation.

13.—(1) In case of injury to or destruction or decay of any work authorised and constructed by the Company under the former Acts or this Act or any part thereof so far as the same are constructed on under or over any tidal waters or tidal lands below high-water mark of ordinary spring tides the Company shall lay down such buoys exhibit such lights or take such other means for preventing so far as may be danger to navigation as shall from time to time be directed by the Corporation of Trinity House of Deptford Strond and shall apply to the said corporation for directions as to the means to be taken.

(2) If the Company fail to comply in any respect with the provisions of this section they shall be liable on summary conviction to a fine not exceeding ten pounds and in the case of a continuing offence to an additional fine not exceeding one pound for every day during which they omit after conviction thereof so to comply or refuse or neglect to obey any direction given in reference to the means to be taken.

Abatement of
work
abandoned or
decayed.

14.—(1) Where any work authorised and constructed by the Company under the former Acts or this Act and situate wholly or partially on under or over tidal waters or tidal lands below high-water mark of ordinary spring tides is abandoned or suffered to fall into decay the Minister may by notice in writing either require the Company at their own expense to repair and restore such part of such work as is situate below high water mark of ordinary spring tides or any portion thereof or require them to abate or remove the same and restore the site thereof to its former condition to such an extent and within such limits as the Minister may think proper.

(2) Where any part of any such work which has been abandoned or suffered to fall into decay is situate above the high-water mark of ordinary spring tides and is in such condition as to interfere or to cause reasonable apprehension that the same may interfere with the right of navigation or other public rights over the foreshore the Minister may include any such part of such work or any portion thereof in any notice under this section.

(3) If during the period of thirty days from the date when the notice is served upon the Company they have failed to comply with such notice the Minister may execute the works required to be done by the notice at the expense of the Company and the amount of such expense shall be a debt due from the Company

to the Crown and shall be recoverable either as a debt due to the Crown or where the amount does not exceed twenty pounds by the Minister summarily as a civil debt.

PART II
—cont.

15. If at any time the Minister deems it expedient for the purposes of this Act to order a survey and examination of any work authorised and constructed by the Company under the former Acts or this Act which shall be on under or over tidal waters or tidal lands below high-water mark of ordinary spring tides the Company shall defray the expense of the survey and examination and the amount thereof shall be a debt due from the Company to the Crown and shall be recoverable either as a debt due to the Crown or where the amount does not exceed twenty pounds by the Minister summarily as a civil debt.

Survey of
works by
Minister.

16.—(1) The Company may acquire provide and within the limits defined in section 24 (Limits) of this Act moor maintain and use a floating dock.

As to floating
dock.

(2) For the purposes of tolls rates and charges and for all other purposes any floating dock so acquired provided or moored shall be deemed to form part of the undertaking.

17.—(1) In addition to their powers under section 20 of the Harbours Clauses Act 1847 the Company shall have power under this section to acquire land by agreement whether by way of purchase lease or exchange for any of the purposes of the undertaking.

Power to
acquire lands
by agreement.

(2) Without prejudice to the generality of the foregoing subsection the Company may acquire land thereunder for the purpose of erecting houses and other buildings thereon for the use of persons employed by them for the purposes of the undertaking.

18. The Company may notwithstanding anything contained in the Lands Clauses Acts or any Act relating to the Company retain hold and use or from time to time for such considerations at such rents and upon such terms (pecuniary or otherwise) and conditions as they may think fit sell exchange lease or otherwise dispose of any lands from time to time belonging to them and any easement right privilege or interest through over or affecting any such lands.

Power to sell
and lease
lands etc.

19.—(1) Notwithstanding anything in this Act or in any Act or Acts incorporated therewith the Company may in respect of any lands acquired or to be acquired by them for the purposes of the undertaking and which are not in the opinion of the Company immediately required for those purposes grant leases or tenancies for such period and upon such terms (pecuniary or otherwise) and conditions as they may deem expedient of any of

Power to
Company to
grant leases.

PART II
—cont.

such lands together with any works which may have been commenced or completed thereon by the Company to any person corporation or company for the construction by the lessees or tenants of graving docks yards works or buildings for the construction repairing and accommodation of vessels and engineering shops and other works or with a view to the improvement by the lessees or tenants of such lands by laying out money in the construction or erection thereon of buildings or works for the purpose of any trade or business ancillary to or convenient to be carried on with the undertaking of the Company and they may also grant to such lessees or tenants the use during their respective leases or tenancies of such waterway quay room and wharfage room and other easements as may be requisite or convenient for the purpose of the trade or business to be carried on.

(2) Every such lease or tenancy shall be made with and subject to such exceptions reservations yearly or other rents or payments covenants conditions powers and provisions whatsoever as the parties thereto may mutually agree upon.

Power to license erection of warehouses etc.

20. The Company from time to time may license any person to make maintain and use on any part of the Company's lands any warehouse ironfoundry shipbuilding establishment building or work connected with the undertaking and every such licence may be for such period and on such terms and conditions pecuniary and otherwise as the parties agree on and the lands so from time to time so used shall be deemed to be so used for purposes of the undertaking.

Power to lease graving docks.

21. The Company may for such term or terms and on such conditions as they may deem expedient lease to any person any graving dock of the Company and any portion of any lands and quays adjacent thereto and any buildings engineering shops or other conveniences in connection therewith and may by any such lease confer on the lessees all or any of the powers of the Company in connection with such graving dock lands or quays including the power to demand and take rates dues tolls and other charges in respect of the user thereof and such lease shall duly take effect as a transfer of the powers exercisable by the Company so purporting to be transferred thereby.

Power to appropriate lands and works for particular trades etc.

22.—(1) The Company may from time to time set apart and appropriate any lands docks wharves quays slipways berths floats warehouses buildings sheds works and conveniences for the time being belonging to them for the exclusive partial or preferential use and accommodation of any particular trade person vessel or class of vessels or goods subject to the payment of such rents and such rates dues tolls and charges and subject to such terms conditions and regulations as they may think fit.

(2) No person or vessel shall make use of any land dock wharf quay slipway berth float warehouse shed building work or convenience so set apart or appropriated without the consent of the harbour master or dock master of the Company and the harbour master or dock master may order any person or vessel making use thereof without such consent to be removed and the provisions of section 58 of the Harbours Clauses Act 1847 shall extend and apply mutatis mutandis to and in relation to any such vessel.

PART II
—cont.

(3) In any arrangements which may be made by the Company under the powers contained in this section the Company shall provide that the rates dues tolls and charges on vessels coming to staying at or going from any wharf quay or berth as aforesaid and on goods discharged or shipped at any such wharf quay or berth shall not be less than those from time to time chargeable in respect of similar vessels and goods using any other part of the undertaking.

PART III

GENERAL POWERS AND DUTIES OF THE COMPANY

23. The Company from time to time may appoint suspend and remove such harbour master dock master and pier master and such meters and weighers at the dock estate and such other officers and servants as the Company think requisite.

Power to
appoint and
remove
officers.

24.—(1) The limits within which the Company shall have authority and within which the powers of their harbour master dock master and pier master for the regulation of any harbour dock and pier of the Company shall be exercised shall be the tidal harbour and any docks works and lands belonging to the Company and coloured red on the signed plan and the area within a distance of two hundred yards seawards thereof being the area within the line coloured red on the signed plan:

Limits.

Provided that within the portion of those limits which is situate between a distance of one hundred yards and a distance of two hundred yards seawards from the land coloured red on the signed plan (being the area within the lines coloured red and blue on the signed plan) the said powers shall only be exercised with respect to vessels going to mooring at or departing from the said land coloured red and nothing in this section shall be deemed to take away from the commissioners any rights or jurisdiction which at the passing of this Act belonged to or could be exercised by them within the said portion of the said limits.

(2) Copies of the signed plan deposited in pursuance of this Act in the principal office of the Company certified by the secretary of the Company to be true shall be received in all courts of justice and elsewhere as evidence of the contents of the signed plan.

PART III

—cont.

Power to
repair
vessels.

25. The Company may on any part of the dock estate repair refit break up build construct and equip vessels and the machinery furniture tackle fittings and materials of vessels and may undertake the salving of ships and carry on the businesses of ship repairers ship breakers ship fitters and ship salvors and any other businesses ancillary or incidental to the aforesaid businesses or to the undertaking and may purchase provide manufacture or hire any plant machinery apparatus or vessels required or suitable for the aforesaid purposes or any of them and may use or dispose of any such vessels machinery furniture tackle fittings materials plant and apparatus as aforesaid and may enter into and carry into effect vary or rescind contracts and agreements with any person for or in relation to any of the matters aforesaid:

Provided that nothing in this section shall authorise the Company to build or construct any vessels other than vessels to be used solely for the purposes of the undertaking.

Power to
dredge.

26.—(1) Notwithstanding anything contained in any local Act order or byelaw the Company may for the purposes of the undertaking upon any lands vested in them or situate within the tidal harbour excavate dredge scour and deepen to such extent as they may deem necessary and may remove and carry away any sand silt chalk gravel clay or other substance or obstruction so excavated or dredged and sell or dispose of the same as they may think fit:

Provided that no materials excavated or dredged under the provisions of this section shall be deposited in any place below high-water mark otherwise than in such position and under such restrictions as may be fixed by the Minister and if such position be within the jurisdiction of the commissioners without the consent of the commissioners.

(2) If any person being the owner of a vessel licensed to dredge for oysters and mussels in pursuance of the Truro Port Fishery Order 1936 (confirmed by the Sea Fisheries (Truro) Order Confirmation Act 1936) shall prove that he has suffered any loss or damage in respect of his oyster fishing or mussel fishing by reason or in consequence of the exercise by the Company of the powers conferred upon them by subsection (1) of this section upon any land which was vested in them by virtue of the Falmouth Docks Act 1939 he shall be entitled to recover compensation from the Company and any question or dispute as to liability for the payment of or as to the amount of any such compensation shall be referred to an arbitrator to be agreed upon between the parties or failing such agreement appointed on the application of either party by the Minister of Agriculture Fisheries and Food and subject as aforesaid the provisions of the Arbitration Act 1950 shall apply to the reference.

27.—(1) Whenever any floating timber or any float or raft of timber (in this section included in the expression “ timber ”) is stranded or abandoned or otherwise constitutes an obstruction within the tidal harbour or in or near any approach thereto or in any dock or other premises of the Company the Company may cause such timber to be removed or broken up or destroyed.

PART III
—cont.

Removal of
floating
timber.

(2) The Company may cause any such timber as aforesaid to be sold in such manner as they think fit (subject to notice being given of the intended sale similar to the notice prescribed by the first proviso of section 530 of the Merchant Shipping Act 1894 in the case of a sale under that section) and out of the proceeds of sale may reimburse themselves for the expenses incurred by them under this section and also for any expenses incurred by them in marking buoying watching lighting or otherwise controlling the timber and shall hold the surplus (if any) of the proceeds of sale in trust for the persons entitled thereto.

(3) If the proceeds of sale of any such timber as aforesaid are insufficient to reimburse the Company for the aforesaid expenses the Company may recover the deficiency or in case of an appeal under subsection (4) of this section such sum as is awarded by the arbitrator to be payable in respect of the deficiency from the owner of such timber or from the executors or administrators of such owner either summarily as a civil debt where the amount recoverable does not exceed twenty pounds or as a debt in any court of competent jurisdiction.

(4) (a) If on demand being made under this section for payment of any deficiency the person on whom the demand is made is dissatisfied with the amount demanded he may within fourteen days after the receipt of the demand appeal to the Minister who shall appoint an arbitrator to determine and award whether any and what sum is payable in respect of the deficiency and the award of the arbitrator appointed by the Minister that no sum is payable or as to the sum payable (as the case may be) shall be conclusive and binding on both parties.

(b) The costs of the appeal and the award shall be in the absolute discretion of the arbitrator and he shall award and order how those costs are to be borne and paid and any costs so awarded and ordered to be paid by either party may be recovered by the other party in the same manner as the sum payable in respect of the deficiency is recoverable under subsection (3) of this section.

(5) The Company shall where reasonably practicable and except in cases of emergency give to the owner of any such timber as aforesaid not less than twenty-four hours' notice in writing before breaking up or destroying such timber under the powers of this section and the owner may on giving twelve hours' notice in writing after the expiration of the aforesaid notice be at liberty forthwith himself to break up or destroy such timber.

PART III
—cont.

(6) The powers conferred by this section on the Company shall be in addition to and not in derogation of any other powers exercisable by them for or with respect to the removal of wrecks.

(7) Notwithstanding anything in this section the powers conferred upon the Company by subsection (1) thereof shall not be exercised in regard to any timber sunk stranded or abandoned or constituting an obstruction in or near any approach to the tidal harbour and within the jurisdiction of the commissioners except subject to the approval of the commissioners or if in the opinion of the Minister such approval is unreasonably withheld then subject to the approval of the Minister.

(8) The powers conferred by this section on the Company shall be exercisable by the Company subject to the provisions of Part IX of the Merchant Shipping Act 1894 so far as such provisions relate to the powers and duties of the receiver of wreck and nothing in this section contained shall lessen abridge or prejudicially affect the exercise by the said receiver of such powers or duties or any of them.

Powers with respect to disposal of wrecks.

28.—(1) In their application to the Company sections 530 and 532 of the Merchant Shipping Act 1894 (which confer powers on the Company with respect to and with respect to anything in or on any vessel sunk stranded or abandoned in such manner as to be an obstruction or danger to navigation in the tidal harbour or in or near any approach thereto) shall have effect—

(a) subject to the provisions of the next following section; and

(b) in relation to a vessel sunk stranded or abandoned before as well as after the passing of this Act.

(2) Subject to subsection (4) of this section and to any enactment for the time being in force limiting his liability the Company may recover as a simple contract debt from the owner of any vessel in relation to which they have exercised their powers under the said section 530 being a vessel sunk stranded or abandoned after the passing of this Act any expenses reasonably incurred by them under that section in relation to that vessel which are not reimbursed out of any proceeds of sale within the meaning of that section or in the case of an appeal under the next following subsection against the amount demanded such sum if any as may be awarded under that subsection.

(3) At any time before the expiration of fourteen days from the date of service on the owner of a vessel of a demand for the payment of any amount under the last foregoing subsection he may if he is dissatisfied with the amount demanded appeal to the Minister who shall appoint an arbitrator to determine whether any and if so what sum should properly be payable by the owner in respect of the Company's expenses aforesaid and the decision

of the arbitrator shall be final and binding on both parties and the costs of the appeal and award shall be borne by the parties in such manner as the arbitrator may determine and be recoverable as a simple contract debt.

(4) Except in a case which is in the opinion of the Company a case of emergency subsection (2) of this section shall not apply in relation to any vessel unless before exercising in relation to that vessel any of the powers conferred on them by the said section 530 other than the power of lighting and buoying the Company have given to the owner of the vessel not less than forty-eight hours' notice of their intention to do so and if before the notice expires the Company receive from the owner counter-notice in writing that he desires to dispose of the vessel himself and no direction is served in respect of the vessel under paragraph (b) of subsection (2) of the next following section he shall be at liberty to do so and the Company shall not exercise the powers aforesaid in relation to that vessel until the expiration of seven days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with the disposal thereof with all reasonable diligence and in compliance with any directions for the prevention of interference with navigation which may be given to him by the Company.

(5) Notice under the last foregoing subsection to the owner of any vessel may be served by the Company either by delivering it to him or by sending it to him by post in a registered letter addressed to him at his last known place of business or abode in the United Kingdom or if the owner or any such place of business or abode is not known to the Company by displaying the notice at the offices of the Company for the period of its duration.

(6) In this section the expression "owner" in relation to any vessel means the person who was the owner of the vessel at the time of the sinking stranding or abandoning thereof.

29.—(1) Without prejudice to section 741 of the Merchant Shipping Act 1894 (which relates to the exemption from the provisions of that Act of vessels belonging to Her Majesty) as modified by any Order in Council made under section 80 of the Merchant Shipping Act 1906 the powers conferred on the Company by sections 530 and 532 of the said Act of 1894 shall not be exercisable—

Protection of
Crown
interests in
wrecks.

(a) in relation to any vessel sunk stranded or abandoned by design by or under the orders of a person acting on behalf of Her Majesty or an officer or servant of the Crown acting in the course of his duty as such;

(b) except with the consent of the Admiralty which may be given with or without such a direction as is referred to in paragraph (b) of the next following subsection in

PART III
—cont.

relation to any vessel which is not excluded from the exercise of those powers by virtue of being a vessel belonging to Her Majesty but which at the time when the vessel was sunk stranded or abandoned—

- (i) had been required to be placed at the disposal of Her Majesty or of a government department; and
- (ii) was appropriated to the service under the direction and control of the Admiralty of Her Majesty's ships of war.

(2) The Company shall give notice in writing to the Admiralty and to the Minister of any decision of the Company to exercise in relation to any vessel any of the powers aforesaid other than the power of lighting and buoying and except in a case which is in the opinion of the Company a case of emergency shall not proceed with the exercise thereof—

- (a) except with the consent of the Admiralty and the Minister before the expiration of a period of fourteen days from the giving of the notice; or
- (b) if before the expiration of the said period there is served on the Company a direction by the Admiralty or the Minister that those powers shall not be exercised in relation to that vessel except in such a case as aforesaid;

and where in any such case as aforesaid the Company proceed to exercise those powers without the consent and before the expiration of the period mentioned in paragraph (a) of this subsection or after a direction has been served on them as aforesaid they shall not in the exercise of those powers use any explosives and if before the expiration of the period aforesaid such a direction as aforesaid is served on them shall not be entitled to exercise the power of sale conferred by the said section 530 or the power conferred by subsection (2) of the last foregoing section:

Provided that—

- (i) the Company shall not be required to give notice under this subsection in respect of any vessel in respect of which they have received a consent under paragraph (b) of the foregoing subsection but any direction such as is referred to in paragraph (b) of this subsection accompanying that consent shall be deemed for the purposes of this subsection and of subsection (4) of the last foregoing section to have been duly served under paragraph (b) of this subsection;
- (ii) the prohibition on the use of explosives imposed by this subsection shall not apply to the use for cutting away the superstructure of a vessel of such small explosive charges as may for the time being be approved by the Minister for the purposes of this proviso.

(3) Without prejudice to the power of sale conferred on the Company by the said section 530 the Company shall hold and dispose of any wreck within the meaning of Part IX of the said Act of 1894 raised removed or recovered under that section and any surplus proceeds of sale within the meaning of that section in accordance with such directions if any as may be given to them by the receiver of wreck and on exercising the said power of sale in the case of any property the Company shall discharge any sums payable in respect of that property by way of duties of customs or excise purchase tax or surcharge in respect of sugar or molasses and any sums so discharged shall be deemed to be expenses incurred by the Company under that section.

(4) Any limitation on the powers of the Company in relation to any vessel arising by virtue of subsection (1) or subsection (2) of this section shall not operate to authorise the exercise in relation to that vessel of the powers conferred on the Corporation of Trinity House of Deptford Strond by section 531 of the said Act of 1894.

30. If any goods shall be deposited or allowed to remain upon the quay of any dock or any pier or other work or property of the Company or in any warehouse of the Company in a decomposed or offensive condition the Company may remove and dispose of or destroy the same as they think fit and the expense of so doing shall be repaid to the Company by the owner of such goods and be recoverable either summarily as a civil debt where the amount does not exceed twenty pounds or as a debt in any court of competent jurisdiction: As to spoilt goods.

Provided that—

- (1) in the case of goods liable to a duty of customs or excise purchase tax or surcharge in respect of sugar and molasses the duties tax or surcharge shall be first paid unless the Board of Customs and Excise think fit to remit them; and
- (2) in the case of the sale of goods required to be warehoused on importation the goods shall be duly warehoused before sale.

31. The Company for the purposes of and in connection with the undertaking may build purchase contract for or hire or license and may maintain and use steamers tugs lighters and other ships and boats and may fix such rates or charges as may appear to them reasonable for or in respect of the use thereof and such rates or charges shall be paid by the owner agent master consignee or other person having charge of any vessel obtaining or demanding assistance or use of any such steamers tugs lighters or other ships or boats to the Company or the person with whom they may contract (as the case may be) and such rates and charges Company may provide steamers tugs etc.

PART III
—cont.

shall be due and payable whether such steamers tugs lighters or other ships or boats shall be actually employed or not provided the assistance or use thereof shall have been required and shall in consequence of such requisition have been tendered by the master or other person having the command of such steamer tug lighter or other ship or boat.

Company may provide engines etc.

32. The Company may provide and use such steam engines vessels piling engines diving bells dredging engines ballast lighters rubbish lighters and other machinery and vessels as they think expedient for any of the purposes of this Act and may demand and take such reasonable sums for the use of the same as they from time to time appoint.

Power to enter into agreements.

33.—(1) The Company on the one hand and the owners lessees and occupiers of any lands works or property belonging or leased to the Company on the other hand may and are hereby authorised to enter into and carry into effect contracts and agreements for and with respect to the maintenance repair renewal alteration enlargement improvement or extension of the authorised works and the supply of electricity by or to the Company to or by any such owner lessee or occupier for use on any lands included within the boundary of the Company's property as marked on the deposited plans.

(2) Nothing in this section shall authorise the Company to break up any public street or road.

Power to lease undertaking or rates.

34.—(1) The Company may with the previous consent in writing of and upon such terms conditions and restrictions and for such period as may be approved by the Minister lease to any person—

(a) the undertaking; or

(b) the right to take and retain the rates dues tolls and charges authorised by this Act.

(2) As from the commencement of any lease made under the preceding subsection the lessee during the continuance of and to the extent provided in his lease shall have and may exercise all or any of the powers conferred upon the Company by this Act and shall be subject to all the liabilities and obligations to which the Company are subject and shall perform all the duties of the Company under this Act.

(3) No lease made under subsection (1) of this section shall be assignable without the previous consent in writing of the Minister and the provisions of this Act with respect to such lease or to the lessee shall apply to any such assignment or to the assignee respectively.

(4) The Company shall within one month after the date of any lease made under this section deposit a certified copy thereof at the Ministry of Transport and Civil Aviation and shall upon failure to do so be liable to a fine not exceeding twenty pounds.

PART III
—cont.

(5) No lease made under this section shall be made in consideration or part consideration of any fine premium or other capital sum.

(6) Nothing in this section shall exempt the Company from their obligation to keep and render accounts and as from the date of any lease made under this section the provisions of this Act and the Acts incorporated therewith as to the keeping delivery and audit of accounts shall apply to and be binding upon as well the lessee as the Company and all moneys received by the Company under or in respect of any such lease shall be deemed to be moneys levied by virtue of and income received under this Act.

35.—(1) The Company may on any part of the dock estate make and maintain any such building or work as may be made and maintained by any licensee of the Company under section 20 (Power to license erection of warehouses etc.) of this Act. Further powers as to erection of buildings etc.

(2) The Company may purchase or take on lease and may hold houses cottages and other buildings for persons in their employ and offices and other buildings for the purposes of the undertaking and may erect any such buildings upon any lands for the time being belonging to or leased to the Company and may fit up maintain and let any such buildings.

36. The Company may in on or across any lands of the Company within the limits of authority defined in section 24 (Limits) of this Act lay down erect or construct and may maintain and use or let on hire sell or otherwise dispose of pipes hoists conveyors and other works and apparatus for conveying loading or discharging china clay china stone oil coal and any other minerals or mineral substances whatsoever and may convey load or discharge and sell supply or deal in any such minerals or mineral substances and may enter into and carry into effect vary or rescind contracts and agreements with any person for or in relation to any of the matters aforesaid. Laying of pipes etc.

37.—(1) The Company may acquire erect provide and maintain on or near to the dock estate and as part of the undertaking refreshment rooms bars or other like accommodation and may furnish stock equip and manage the same and carry on the businesses thereof subject to the provisions of all enactments relating thereto and employ officers managers and servants therein or in connection therewith and may for those purposes acquire by agreement and hold lands. Power to provide hotels etc.

(2) The Company may let on lease or otherwise any hotel or refreshment room bar or any other like accommodation so provided by them as aforesaid.

PART III
—cont.

Power to
carry on
warehouses
etc.

38.—(1) The Company may undertake the warehousing of goods and may within the dock estate act as warehousemen wharfingers and storekeepers and may also manage work and use any warehouses sheds foundries buildings or works erected or provided by them under the powers of the former Acts or this Act or any incorporated enactment or by any lessee or licensee of the Company under this Act and may demand and take reasonable charges for any services rendered by them under the provisions of this subsection.

(2) The Company may also demand and take reasonable charges for any work and labour done by them in relation to any goods warehoused or handled by them and they may detain any such goods as security for the payment of any customs duties purchase tax or surcharge in respect of sugar and molasses thereon and of the Company's charges and they may if they think fit also detain the same for rent freight lien or other charges claimed in respect thereof if they have notice in writing so to do.

Goods ware-
housed or
deposited to
remain
subject to
freight etc.

39. All goods warehoused by the Company or deposited in any of their warehouses or sheds by any person having or claiming an interest in such goods or by the owner or master of the vessel out of which the same may have been warehoused or deposited or by any person interested in the freight of such vessel or entitled to or claiming the benefit of any other claim or lien whatsoever to which the goods were subject while the same were on board such vessel and before the warehousing or deposit thereof shall continue liable to such and the same claim or lien for freight and also to all such other claims or liens whatsoever in favour of the owner or master of such vessel or of any other person interested in such goods or in the freight of such vessel or entitled to or claiming the benefit of any other claim or lien thereon as such goods were liable to whilst the same were on board such vessel and before the warehousing thereof:

Provided that nothing in this section shall extend to prohibit the Company from exercising the powers of section 45 of the Harbours Clauses Act 1847 or of section 45 (Company may sell goods for payment of rates etc. or may bring action) of this Act unless notice to detain such goods shall have been given to the Company as in this Act provided in which event the provisions of this Act in relation to such a notice and the powers of the Company thereafter to sell such goods shall have effect.

Notice may
be given to
Company to
detain goods
until freight
etc. be
satisfied or
deposit made.

40. If notice in writing to detain goods other than perishable goods shall be given to the Company by the owner or master of the vessel out of which the goods shall have been landed deposited or warehoused or by any person having or claiming an interest in or a lien upon such goods or interested in the freight of such vessel previously to the warehousing thereof being completed the Company shall detain and keep such goods in

their warehouses or sheds until such claims or liens as aforesaid together with all rates rents and charges to which the goods shall have become subject or liable shall be paid or until such rates rents and charges shall be paid and a deposit equal in amount to the demand made by the owner or master of the vessel or other person interested as aforesaid for or on account of any such claim or lien as aforesaid shall have been made which deposit the Company shall receive and hold in trust until the amount due in respect of such claim or lien shall have been tendered or satisfied and upon proof thereof being given to the Company to their satisfaction and payment made to them of all rates rents and charges (if any) due upon such goods such deposit shall be returned upon demand to the person by whom the same was made or to his executors administrators or assigns.

PART III
—cont.

41. Such deposit shall be considered as made in payment of the claim or lien on the goods in respect of which the deposit shall have been made and the Company (on the expiration of ten days next after the deposit shall have been made and in case notice in writing to retain the amount of the deposit shall not in the meantime have been given to the Company by some person claiming to be entitled to such goods) shall out of so much of the deposit as shall remain after deducting and retaining the rates rents and charges (if any) then due to the Company on the goods in respect of which the deposit shall have been made and all other expenses (if any) incurred by the Company in respect thereof pay to the master or owner of the vessel from which such goods shall have been warehoused or deposited or other person entitled to or interested in such claim or lien the amount of his claim or lien and the payment so made by the Company shall release and discharge them from all claims and demands whatsoever in respect of so much of such deposit as they shall have paid to such master owner or other person interested as aforesaid.

Deposit to be considered as made in payment of claim.

42. Such notice to the Company to retain the amount of any such deposit as aforesaid shall not continue to operate or have effect for a longer period than thirty days from the service thereof unless some action claim suit or other proceeding for determining the title or liability to the claim or lien in respect of which the deposit shall have been made or the right to or the ownership of the deposit shall in the meantime be actually commenced and notice in writing thereof served on the Company.

Notice to have effect for thirty days only unless action etc. be brought.

43.—(1) If notice to detain any such goods shall have been given as aforesaid and such deposit shall not be made within ninety days next after the goods shall have been warehoused the Company may after the payment of the customs and excise duties purchase tax or surcharge in respect of sugar and molasses (if any) sell all or any part of the goods and out of the

Power of sale if deposit be not made.

PART III
—cont.

proceeds thereof retain the amount of the duties so paid and also retain and pay the rates rents and charges payable to the Company and the expenses of such sale and all other expenses to which in respect of the goods the Company have been put and in the next place shall pay the freight and other claims or liens to which the goods may be liable but so far only as the money in the hands of the Company will admit and render the surplus (if any) to the person entitled thereto.

(2) No such sale shall be made by the Company until ten days' previous notice in writing of such claim or lien thereon as aforesaid and of the intention to sell the said goods for satisfaction thereof shall have been given to the owner thereof (if his name and residence or place of business shall appear on the manifest of the cargo or shall have been entered in the books of the warehouse or shed in which such goods shall have been deposited) by sending such notice in a registered letter by post to such residence or place of business and if such owner shall not be known then until ten days after such notice shall have been inserted once in some newspaper published in London and in one or more newspapers published in the county of Cornwall and the Company shall not sell a greater portion of such goods than shall in their judgment be sufficient to cover the amount of the said duties rates rents charges and expenses and of such claims or liens as aforesaid.

Period for giving notice to detain goods.

44. Notice to detain goods for payment of freight or any other claims or liens to which such goods were liable whilst on board any vessel and before the warehousing thereof shall not be valid unless the same shall be given to the Company before the warehousing thereof shall have been completed.

Company may sell goods for payment of rates etc. or may bring action.

45. If default be made in payment to the Company of any rates rents or charges in respect of goods and if no notice in writing to detain goods shall have been given to the Company in accordance with the foregoing provisions of this Act or if any such notice having been given shall have ceased to have effect then it shall be lawful for the Company first paying the customs and excise duties purchase tax or surcharge in respect of sugar and molasses (if any) to detain and sell the goods or any part thereof and after retaining the amount of such duties tax or surcharge to retain and pay in the first place the rates rents and charges so unpaid as aforesaid and the expenses of detention and sale and all other expenses to which the Company have been put in respect of such goods and in the next place the Company shall (if they have received notice that the freight due or any other claim or lien on the goods has not been paid) pay on demand to the person entitled thereto the amount of such freight or other claim or lien as aforesaid or so much thereof as the money in the hands of the Company will admit and shall render

the surplus (if any) of the proceeds and such of the said goods as shall remain unsold (the duties tax surcharge rates rents charges and expenses due in respect thereof having been discharged as aforesaid) to the person entitled thereto:

PART III
—cont.

Provided that it shall be lawful for the Company either in lieu of selling such goods or notwithstanding such sale if the produce of such sale shall be insufficient to recover the amount of such duties tax surcharge rates rents charges and expenses or the balance thereof as the case may be which shall be due to them by action or claim to be brought or made in any court of competent jurisdiction.

46. Except with respect to goods of a perishable nature which in the judgment of the Company would be materially lessened in value by being retained by them the Company shall not so sell any goods under the provisions of the immediately preceding section of this Act until after the expiration of six months after the time at which the goods are unshipped or delivered upon or into the dock estate.

Restrictions
as to time of
sale for
recovery of
charges.

47. Notwithstanding anything in this Act the Company may if they think fit sell any goods of a perishable nature deposited and lodged with them at any time when in their judgment the goods would be materially lessened in value by being further retained by them and whether or not they have notice of the non-payment of freight due or other claim or lien on the goods or notice to detain such goods:

Sale of
perishable
goods.

Provided that in no case shall any goods liable to a duty of customs or excise purchase tax or surcharge in respect of sugar and molasses be sold unless payment shall have been first made of the duty tax or surcharge payable thereon.

48. When the Company so sell any such perishable goods they shall (after retaining the amount of any duties of customs and excise purchase tax or surcharge in respect of sugar and molasses paid by them in respect of such goods) apply the proceeds of the sale so far as they suffice in payment in the first place of the rates rents and charges due and payable to the Company in respect thereof and the expenses of the sale and all other expenses to which the Company have been put in respect of such goods and in the next place if the Company have been duly served with notice in writing of the claim for freight or any other claim or lien in respect of the goods in payment of such claim or lien or so much thereof as the money in the hands of the Company will admit and shall render on demand the surplus (if any) of the proceeds and the unsold goods (if any) to the person appearing to them to be entitled thereto.

Application
of proceeds
of sale of
perishable
goods.

PART III

—cont.

Notice of
intention to
sell goods.

49. Before selling (except in case of emergency) any goods under the provisions of sections 45 (Company may sell goods for payment of rates etc. or may bring action) and 47 (Sale of perishable goods) of this Act the Company shall give to the owner or consignee of the goods forty-eight hours' notice of their intention to sell the same by posting a prepaid letter addressed to such owner or consignee at the place (if any) in the United Kingdom where he carries on business or at his last known place of abode in the United Kingdom or if such owner or consignee or his last place of business or abode shall not be known to the Company then before selling any goods as aforesaid a like notice shall be exhibited by the Company for forty-eight hours at the principal office of the Company.

Company may
issue
certificates of
deposited
goods and
delivery
warrants.

50.—(1) The Company at the request of any person warehousing any goods or depositing any goods upon any part of the dock estate specially appropriated for the purpose or entitled to any goods so warehoused or deposited may if the Company think fit issue and deliver to him a certificate of such goods having been so warehoused or deposited or a warrant for the delivery of the same or any part thereof to be specified in such warrant and the Company may charge for each certificate or warrant any sum not exceeding ten shillings.

(2) Every such certificate or warrant shall—

- (a) be deemed to be a document of title to the goods specified therein and shall be transferable by endorsement and any holder of such certificate or warrant whether the person named therein or the last endorsee thereof shall have the same right to the possession and property of such goods as if they were deposited in his own warehouse;
- (b) state on the face thereof the effect of this subsection and that it is issued under the powers of this Act.

(3) No such certificate or warrant shall be given unless and until all claims for freight and all other claims and liens whatsoever to which the goods were liable while on board any vessel and before the warehousing or depositing of the same and of which the Company may have had notice in writing and all rates rents charges and expenses payable to the Company with respect to the warehousing or depositing of the goods or for services performed by the Company in respect thereof are paid or discharged.

(4) Before a warrant for the delivery of all or any of the goods specified in any certificate is issued by the Company the certificate shall be delivered to them to be cancelled:

Provided that if the warrant be for the delivery of part only of the goods the Company shall issue to the person so delivering up the certificate a new certificate with respect to the goods not specified in the warrant.

51. All certificates delivery warrants and other documents relating to goods in the custody of the Company or to the management of the business of the dock estate being signed and issued by an officer duly authorised in that behalf shall be effectual in law and binding on the Company and all other parties interested without any other signature and without any seal.

PART III
—cont.
Warrants etc.
signed by
duly autho-
rised officers
sufficient.

PART IV

RATES AND DUES

52. The Company may demand and take in respect of every vessel entering the tidal harbour from the sea or lying alongside or using any wharf quay pier slipway breakwater or other work of the Company any sum not exceeding the rates specified in the First Schedule to this Act and every such sum shall be payable by the master of the vessel.

Harbour rates
on shipping.

53. The Company from time to time may confer exemptions from such portion as they think fit of the rates specified in the First Schedule to this Act in the following cases (that is to say):—

Remission of
portion of
harbour rates
on shipping.

- (1) where the vessel does not exceed one hundred tons burden;
- (2) where the vessel passes from the tidal harbour into any dock of the Company;
- (3) where the vessel is propelled by power and has in the course of the current year entered the tidal harbour not less than fifteen times;
- (4) where the vessel is not propelled by power and has in the course of the current year entered the tidal harbour not less than seven times;
- (5) where the vessel is propelled by power and enters the tidal harbour for the purposes of landing mails only or of coaling only;
- (6) where the vessel remains in the tidal harbour or at any wharf quay pier slipway breakwater or other work of the Company less than forty-eight hours:

Provided that every such exemption shall be made equally to all persons in respect of all vessels falling within the same description.

54. The Company from time to time in addition to the rates specified in the First Schedule to this Act may demand and take—

Dock rates
on shipping.

- (1) for every vessel entering any dock of the Company for every registered ton of the vessel such rates as the Company think fit not exceeding the rates specified in Part I of the Second Schedule to this Act; and

PART IV
—cont.

- (2) for every vessel leaving any dock of the Company for every registered ton of the vessel such rates as the Company may think fit not exceeding the rates specified in Part II of the Second Schedule to this Act:

Provided that the Company may demand and take for—

- (a) every vessel entering and leaving any dock of the Company without delivering or loading cargo such rate as the Company think fit not exceeding threepence for every registered ton of the vessel; and
- (b) each lighter or other river craft not exceeding fifty tons burden entering and leaving the tidal harbour or any dock of the Company for the purpose of loading or discharging minerals or merchandise such rate as the Company think fit not exceeding five shillings for every registered ton.

Additional
harbour and
dock rates on
vessels
remaining
more than
two weeks.

55. If any vessel remain in the tidal harbour or any dock of the Company or lie alongside or use any wharf pier breakwater or landing-place of the Company for any time longer in the whole than two weeks the Company may demand and take in addition to the rates specified in the First and Second Schedules to this Act for every vessel so remaining a further rate not exceeding for every ton measurement of the vessel threepence a ton for every week the vessel so remains beyond two weeks.

Rates on
goods.

56.—(1) The Company may demand and take in respect of all goods landed discharged shipped unshipped transhipped received or delivered within the tidal harbour or any dock of the Company or upon or from any wharf quay pier slipway breakwater or other work of the Company rates not exceeding those specified in Part I of the Third Schedule to this Act subject to the regulations set forth in Part II of that schedule.

(2) If any goods remain on any wharf quay pier slipway breakwater or other work of the Company for more than twenty-four hours after the time when the goods are placed thereon the Company may demand and take in respect of every successive period of twenty-four hours during which the goods remain thereon after the first twenty-four hours any sum not exceeding the amount of the rates on goods which may be levied by the Company under subsection (1) of this section.

Dues for
passengers
and luggage.

57. The Company may demand and take in respect of every person embarking on board any vessel from or landing from any vessel at or upon any work of the Company and in respect of all ordinary luggage shipped or landed from or upon any such work any sums not exceeding the dues specified in the Fourth Schedule to this Act and those dues shall if the Company think fit be paid before the embarking or landing is permitted to take place.

PART IV
—cont.

58. The Company may demand and take in respect of every person walking or being on any pier or landing-place of the Company and not being a passenger about to embark on board or having just landed from any vessel the sum of threepence for every occasion on which he shall walk or be on any such pier or landing-place.

Dues for persons walking on pier or landing-places.

59. The rates authorised in respect of seaplanes shall be paid by or be recoverable from either the owner or the pilot or other person in charge of such seaplane as the Company may determine.

Payment etc. of rates on seaplanes.

60. The Company from time to time may demand and take for every vessel entering into any dry or graving dock of the Company for the purpose of being repaired or lying therein or departing therefrom and also for every vessel built in any dry or graving dock of the Company or drawn or hauled up on any inclined plane or slip of the Company or placed on any gridiron or in any saucer of the Company and also for the use of the engines falls slings staging shores shears and other machinery and apparatus of the Company or any of them such reasonable rates as the Company from time to time appoint.

Rates for use of graving docks slips inclined planes engines shears etc.

61. The Company from time to time may demand and take for the use of their warehouses cranes and weighing and measuring machines from the owner or person having the charge of any goods deposited in the warehouses or loaded or unloaded weighed or measured by means of the cranes or weighing or measuring machines such reasonable rates as the Company from time to time appoint.

Rates for use of warehouses cranes weighing-machines etc.

62. The Company from time to time may make such reasonable charges as they think fit for services rendered by them in respect of building and repairing ships shipping unshipping transhipping landing relanding housing unhousing weighing coopering sampling piling unpling loading unloading watching protecting repairing collecting and delivering goods and for any other services with respect to ships or goods at their harbour docks quays or works and the Company may render any such services when they think proper.

Charges for services rendered by Company etc.

63. In addition to the remedy given by section 44 of the Harbours Clauses Act 1847 and whether the demand required by that section has been made or not the Company may recover any rates which by any enactment from time to time relating to the Company they are authorised to demand and take as a debt in any court of competent jurisdiction.

Recovery of rates.

64. The Company may from time to time if and when they think fit compound for any time not exceeding one year with the owners of any vessels resorting to and using the Company's harbour docks quays or works for the payment of such sum as the Company think sufficient by way of composition for and in discharge of all or any of the harbour rates dock rates rates on goods dues on passengers or other rates or dues by this Act

Power to compound for rates.

PART IV
—cont.

made payable in respect of vessels and passengers and cargo conveyed therein and such composition money shall be recoverable as rates:

Provided that whenever any such composition is made with any such owner it may be adopted and demanded by the owners of any other like vessels resorting to and using in like circumstances the Company's harbour docks quays or works and no such composition shall be made partially in favour of or against any particular persons.

Power to
revise rate
not affected
by transfers.

65.—(1) Notwithstanding that the power to demand and take rates in respect of the user of any part of the undertaking is transferred by the Company to some other person under section 34 (Power to lease undertaking or rates) of this Act the rates in respect of which the power to demand and take is so transferred shall for the purposes of section 6 of the Transport Charges &c. (Miscellaneous Provisions) Act 1954 be deemed to be charges (within the meaning of the said Act of 1954) which the Company are for the time being authorised to demand and take in pursuance of a statutory provision and in connection with any application for the revision of such rates the provisions of the said section 6 shall apply as if the power to demand and take had not been transferred.

(2) In this section "rates" includes tolls rents charges and sums of money.

Charges on
Company's
railways.

66. The Company may in respect of the several short lines of railway or sidings made and maintained on their wharves or other lands and connected with the railway of the British Transport Commission demand and take for conveying animals and things of any description thereon the sum of one pound for each wagon or truck used for conveying the same.

Increased
railway tolls
by agreement.

67. Nothing in this Act contained shall prevent the Company from taking in respect of their lines of railway any increased charge over and above the charge by this Act authorised for the conveyance of animals or things of any description by agreement with the owners or persons in charge of the same either with respect to the conveyance of the same or by reason of any special service (other than the conveyance of the same) performed by the Company with respect to the same.

PART V
FINANCIAL

Capital.

68.—(1) Notwithstanding the repeal effected by section 108 (Repeal) of this Act the authorised capital of the Company shall continue to be three million five hundred thousand pounds consisting of—

(a) two million seven hundred and one thousand one hundred and seventy-nine pounds the nominal amount

of the ordinary share capital created and issued at the date of the passing of this Act;

- (b) two hundred and ninety-eight thousand eight hundred and twenty-one pounds the nominal amount of the preference share capital created and issued at the date of the passing of this Act;
- (c) five hundred thousand pounds the capital referred to in section 70 (As to unexercised powers of raising capital) of this Act.

PART V
—cont.

(2) The existing capital shall for the purposes of the annual accounts and balance sheets of the Company and of any new share certificate or debenture stock certificate that may be issued by the Company be deemed to have been authorised and issued solely under this Act and not under any of the provisions repealed by the said section 108 of this Act.

69. Notwithstanding the repeal effected by section 108 (Repeal) of this Act the existing capital shall continue to be subject and liable to the same trusts powers provisions declarations agreements charges liens and incumbrances as affected the same immediately before the passing of this Act and every deed or other instrument relating to and every testamentary or other disposition of or affecting the existing capital made before the passing of this Act shall take effect as if this Act had not been passed.

70.—(1) Notwithstanding the repeal effected by section 108 (Repeal) of this Act the Company shall continue to be authorised from time to time for the purposes of the undertaking to raise share capital not exceeding in the whole five hundred thousand pounds by the creation and issue of ordinary shares or preference shares or wholly or partly by one or more of those modes.

(2) It shall not be lawful for the Company to create and issue under the powers of this section any greater nominal amount of share capital than shall be sufficient to produce (including any premiums and allowing for any discounts which may be obtained or allowed on the issue thereof) the amount of five hundred thousand pounds.

71. The share capital created by the Company in exercise of the powers conferred by section 70 (As to unexercised powers of raising capital) of this Act shall form part of the general share capital of the Company and save as may be otherwise expressly provided by the terms and conditions subject to which the shares are issued the holders thereof in proportion to the amount of their holding shall be subject and entitled to the same powers provisions liabilities rights privileges and incidents in all respects as holders of share capital of the Company of the same class or description.

PART V
—cont.Dividend on
preference
shares.

72.—(1) For the purposes of the Companies Clauses Act 1863 as incorporated with this Act the prescribed rate of dividend on any preference shares issued under this Act shall be such rate not exceeding the rate of ten per centum per annum as may be specified in the resolution creating the shares.

(2) Notwithstanding anything in the last foregoing subsection or in the said Act of 1863 as incorporated with this Act the Company may in any year pay a greater rate of preferential dividend than the rate assigned thereto on so much of the paid-up share capital as is issued as preference capital in order to make up deficiencies in previous dividends:

Provided that this subsection shall apply only in relation to deficiencies arising during the last five years before the year in respect of which a dividend is being paid.

(3) As from the passing of this Act all share capital issued as preference capital prior to the passing of this Act and all future share capital issued as preference capital shall be deemed to have cumulative rights of dividend.

Power to
borrow.

73.—(1) The Company may without obtaining a certificate of a justice under section 40 of the Companies Clauses Consolidation Act 1845 raise for the purposes of the undertaking either by borrowing on mortgage of the undertaking or by the creation and issue of debenture stock or by both of those modes or partly by one and partly by the other any additional sum or sums of money not exceeding in the whole one-half of the amount actually paid up on any shares which at the time of borrowing have been issued or have been deemed to have been issued under the powers of this Act.

(2) The powers conferred by subsection (1) of this section shall be without prejudice to the right of the Company to reborrow from time to time any amounts which having been raised by borrowing on mortgage or by the creation and issue of redeemable debenture stock are thereafter paid off.

(3) The Company may for the purposes of or in connection with the undertaking borrow or raise moneys on temporary loans by means of overdrafts from bankers or otherwise:

Provided that the aggregate amount outstanding of the moneys so borrowed or raised together with any moneys raised under subsection (1) of this section shall not exceed in the whole one-half of the amount actually paid up on any shares which at the time of borrowing have been issued or have been deemed to have been issued under the powers of this Act.

Debenture
stock.

74.—(1) The Company may create and issue debenture stock subject to the provisions of Part III of the Companies Clauses Act 1863 but notwithstanding anything therein contained the

interest of all debenture stock and of all mortgages at any time created and issued or granted by the Company under this Act or any subsequent Act shall subject to the provisions of any subsequent Act rank *pari passu* (without respect to the dates of the securities or of the Acts of Parliament or resolutions by which the stock and mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages.

PART V
—*cont.*

(2) Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock granted or issued by the Company.

75. All money raised by the Company on mortgage or debenture stock under the provisions of this Act shall have priority against the Company and all the property from time to time of the Company over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act:

Priority of mortgages and debenture stock over other debts.

Provided that this priority shall not affect any claims against the Company or their property in respect of any rentcharge granted or to be granted by them in pursuance of the Lands Clauses Acts or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company which is entitled to rank in priority to or *pari passu* with the interest on their mortgages or debenture stock nor shall anything in this section contained affect any claim for land taken used or occupied by the Company for the purposes of the undertaking or injuriously affected by the construction of any works by or the exercise of any powers conferred on the Company.

76.—(1) The mortgagees of the undertaking may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver.

Appointment of receiver.

(2) In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than ten thousand pounds in the whole.

77. If any money is payable to any shareholder stockholder mortgagee or debenture stockholder being a minor idiot or lunatic the receipt of the guardian or committee or receiver of his estate shall be a sufficient discharge to the Company.

Receipt in case of persons not *sui juris*.

78. All moneys raised under this Act whether by shares or debenture stock or borrowing shall except as by this Act otherwise expressly authorised be applied only for the purposes of this Act to which capital is properly applicable.

Application of moneys.

PART VI

ADMINISTRATIVE

Annual general meeting and yearly accounts.

79. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 or in any enactment relating to the Company the ordinary general meeting of the Company shall be held in each year in the month of March or at such other times and at such place as the directors may from time to time appoint and it shall not be obligatory on the Company to hold half-yearly meetings or to balance their accounts or to make up a balance sheet half-yearly.

Dividends.

80.—(1) Notwithstanding anything in section 120 of the Companies Clauses Consolidation Act 1845—

(a) the directors shall not be required to cause a scheme to be prepared as provided for in that section and at an ordinary general meeting held in pursuance of that section a dividend may be declared by the shareholders but no such dividend shall exceed the amount recommended by the directors;

(b) if any shares have been issued by the Company on terms which provide that they shall rank for dividend as if issued and paid up as from a particular date they shall rank for dividend accordingly.

(2) In apportioning under the said section 120 a dividend on any shares of the Company which have been issued on terms that provide that they are to be credited with an amount paid up thereon that amount shall in addition to the amount (if any) actually paid be treated as having been paid on the shares.

(3) If and so far as in the opinion of the directors the profits of the Company justify such payments the directors may pay without the sanction or direction of a general meeting—

(a) the fixed preferential dividends on any class of shares carrying such a dividend together with any arrears of dividend on any such class which are then outstanding on the dates on which such dividends are required to be paid by the terms of issue of the shares; and

(b) interim dividends on any class of ordinary share capital of such amounts and at such dates as they think fit.

As to accounts.

81.—(1) Notwithstanding anything contained in this Act section 50 of the Harbours Clauses Act 1847 shall in its application to the Company have effect as if for the words “such account shall end” there were substituted the words “the ordinary general meeting of the Company shall be held”.

(2) The Company shall within one month after the first day on which an ordinary general meeting of the Company shall be held

after the date to which the accounts of the Company are made up in pursuance of the said section 50 send a copy of such accounts and of the balance sheet of the Company to the Minister and the Company shall as from the expiration of the said period be liable to a fine not exceeding twenty pounds for every week or part of a week during which they refuse or neglect to comply with this subsection.

PART VI
—cont.

82.—(1) The directors may close the register of transfers of ordinary shares for a period not exceeding fourteen days previous to the declaration of any dividend and they may close the registers of transfers of preference shares and of debenture stock for a period not exceeding fourteen days previous to each date at which the interest on such shares or stock shall be payable and in the case of any such register they may fix a day for closing the same of which seven days' notice shall be given either by circular to each proprietor or by advertisement.

Closing of
transfer books
previous to
declaring
dividend or
paying
interest.

(2) Any transfer of ordinary or preference shares or debenture stock made during the time when the register of transfers relating thereto is closed shall as between the Company and the person claiming under the same but not otherwise be considered as made subsequently to the declaration of any such dividend or the payment of any such interest as the case may be.

83. The prescribed quorum of a general meeting of the Company shall be three holders of shares of the Company entitled to vote and holding not less than one-twentieth of the paid-up capital (other than loan capital) of the Company.

Quorum of
general
meetings.

84.—(1) Every holder of ordinary shares and (subject as hereinafter mentioned) of preference shares of the Company shall be entitled at all general meetings of the Company to one vote for every one share held by him.

Voting rights.

(2) Except as otherwise expressly provided by the resolution creating the same no persons shall be entitled to vote in respect of any share to which a preferential dividend shall be assigned.

85. The number of directors shall be six but the directors may vary the number provided that the number shall not at any time be more than ten or less than three.

Number of
directors.

86. The quorum of a meeting of the directors shall be three when there are not less than five directors and two when there are less than five directors.

Quorum of
directors'
meeting.

87. The number of directors of which committees appointed by the directors shall consist shall be at least three directors and the quorum of the respective committees shall be that which the directors at the time of appointing the committee determine.

Committees
of directors.

PART VI

—cont.

Qualification
of directors.

88. The qualification of a director shall be the possession of fully paid shares or debenture stock of the Company of a total nominal amount of not less than two hundred and fifty pounds in the whole.

Notice of
candidature
for office of
director.

89. Except in the case of a director retiring by rotation and offering himself or being proposed for re-election no person shall be capable of being elected at a general meeting a director of the Company unless notice in writing that such person intends to offer himself or will be proposed for the office of director shall have been given to the secretary or left at the principal office of the Company ten days at least before the day of election.

Continuing
directors.

90. The continuing directors may act notwithstanding any vacancy in their body but so that if at any time the number of directors of the Company holding office shall be less than the minimum number prescribed by section 85 (Number of directors) of this Act the directors shall not except for the purpose of filling vacancies and allotting shares to any proposed director or directors act so long as the number is below such minimum.

Directors
not to be
disqualified
from entering
into contracts
etc.

91. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 no person shall be disqualified from being a director of the Company by reason of his holding any office or place of trust or profit under the Company or by reason of his being interested in any contract with the Company nor shall any director be required to cease from voting or acting as a director by reason of his accepting any such office or place of trust or profit or becoming interested in any such contract:

Provided that in the case of his being or becoming interested in any contract with the Company whether such interest shall arise before or after his appointment as a director the nature of his interest in the contract shall be disclosed by him at the meeting of the directors at which the contract is determined or if his interest then exists or in any other case at the first meeting of the directors after the acquisition of his interest or after his appointment and also in the next annual report of the Company and that no director shall as a director vote in respect of any such contract and if he does so vote his vote shall not be counted but this prohibition shall not apply to any contract by or on behalf of the Company to give to the directors or any of them any security by way of indemnity.

Auditors.

92.—(1) The Company shall annually appoint one or more persons or a firm of accountants to be the auditor or auditors of the Company:

Provided that no person or firm shall be qualified for appointment as auditor unless he is a member or in the case of a firm

unless all the partners are members of one or more of the following bodies:—

PART VI
—cont.

the Institute of Chartered Accountants in England and Wales;

the Society of Incorporated Accountants;

the Institute of Chartered Accountants of Scotland;

the Association of Certified and Corporate Accountants;

the Institute of Chartered Accountants in Ireland;

any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of paragraph (a) of subsection (1) of section 161 of the Companies Act 1948 by the Board of Trade.

(2) It shall not be necessary for any auditor of the Company to hold any shares or stock of the Company.

(3) No person not being a retiring auditor of the Company shall be eligible to be elected at any general meeting an auditor of the Company unless notice in writing be given to the secretary or left at the principal office of the Company not less than seven clear days before the date of the meeting that such a person will be proposed for election as auditor of the Company. The secretary shall on receipt of any such notice send a copy thereof to the retiring auditor or auditors and during the seven days and day of election keep a copy of the notice fixed in some conspicuous place in the said office.

(4) If any auditor of the Company die or resign the directors may appoint another auditor in his place and any auditor so appointed shall hold office until the next ordinary meeting.

93. In addition to the powers which the directors may exercise under the Companies Clauses Acts 1845 to 1889 they may determine the remuneration of the secretary and auditors.

Determination
of remunera-
tion of
secretary and
auditors.

94. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 the attorney of any shareholder of the Company duly authorised in writing may appoint a proxy to vote for and on behalf of the shareholder and for that purpose may execute on behalf of the shareholder the necessary form of proxy:

Appointment
of proxies.

Provided that the instrument appointing the attorney shall be transmitted to the secretary at the same time as the instrument appointing the proxy.

95. Notwithstanding anything contained in the Companies Clauses Consolidation Act 1845 where several persons are jointly entitled to and registered as holders of any shares of the Company any one of those persons may vote at any meeting (at which holders of shares of the same class are entitled to vote) either personally or by proxy in respect of those shares as if he were

Joint holders.

PART VI
—cont.

solely entitled thereto but if more than one of the joint holders be present at any meeting personally or by proxy that one of the said persons so present whose name stands first on the register in respect of the shares shall alone be entitled to vote in respect thereof.

As to
shareholders'
register.

96. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 it shall not be necessary to authenticate the register of shareholders of the Company by affixing the common seal of the Company to such register.

PART VII.

PROTECTIVE PROVISIONS AND SAVINGS

Crown rights.

97. Nothing in this Act affects prejudicially any estate right power privilege or exemption of the Crown.

Saving rights
of Duchy of
Cornwall.

98. In particular and without prejudice to the general law concerning the applicability of statutes to the Duchy of Cornwall nothing contained in this Act shall extend to authorise the Company to take use enter upon or interfere with any land soil or water or take away diminish alter prejudice or affect any property rights profits privileges powers or authorities belonging to or enjoyed by Her Majesty in right of the Duchy of Cornwall or to or by the Duke of Cornwall for the time being without (in the case of land soil water property rights profits privileges or authorities belonging to or enjoyed by Her Majesty in right of the said Duchy) the consent in writing of some two or more of such of the regular officers of the said Duchy or of such other persons as may be duly authorised under section 39 of the Duchy of Cornwall Management Act 1863 to exercise all or any of the rights powers privileges and authorities by the said Act made exercisable or otherwise for the time being exercisable in relation to the said Duchy or (in the case of land soil water property rights profits privileges or authorities belonging to or enjoyed by the Duke of Cornwall for the time being) the consent of such Duke testified in writing under the seal of the Duchy of Cornwall first had and obtained for that purpose.

Saving for
powers of
Treasury.

99. It shall not be lawful to exercise the powers of borrowing or raising capital conferred by this Act otherwise than in compliance with the provisions of any order for the time being in force made under section 1 of the Borrowing (Control and Guarantees) Act 1946.

For protection
of Postmaster-
General.

100.—(1) All the provisions of the Electric Lighting Acts 1882 to 1909 and of the schedule to the Electric Lighting (Clauses) Act 1899 for the protection of the Postmaster-General and his telegraphic lines shall extend and apply to the exercise of any powers with respect to the use or supply of electricity under the provisions of any contract or agreement made under the authority of this Act.

(2) Any electrical works or apparatus constructed erected laid down provided maintained or used by the Company shall be so constructed erected laid down or provided and so maintained and used as to prevent interference with any telegraphic line belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line.

PART VII
—cont.

101.—(1) Notwithstanding anything in section 28 (Powers with respect to disposal of wrecks) of this Act the powers conferred by sections 530 and 532 of the Merchant Shipping Act 1894 shall not be exercised in regard to any vessel or timber sunk stranded abandoned or constituting an obstruction in or near any approach to the tidal harbour and within the jurisdiction of the commissioners except subject to the approval of the commissioners or if in the opinion of the Minister such approval is unreasonably withheld then subject to the approval of the Minister.

Saving rights
of Falmouth
Harbour
Commis-
sioners.

(2) Except as by this Act otherwise expressly provided nothing in this Act shall prejudice or derogate from or in anywise alter affect or interfere with the jurisdiction authority rights powers and privileges of the commissioners.

102. The following provisions for the protection of the protected owner shall notwithstanding anything in this Act or shown on the deposited plan and unless otherwise agreed in writing between the Company and the protected owner apply and have effect (that is to say):—

For protection
of Harvey
and Company
Limited.

(1) In this section—

“ the protected property ” means the lands shown on the deposited plan and thereon numbered 3 and 5 and described in the deposited book of reference;

“ the protected owner ” means Harvey and Company Limited or other the owner or owners for the time being of the protected property and includes the occupier or occupiers of that property;

“ authorised work ” means the work authorised by section 4 (Power to construct new quay) of the Falmouth Docks Act 1949 as altered or extended in accordance with the provisions of this Act and includes any work connected therewith or subsidiary thereto;

“ the deposited plan ” and “ the deposited book of reference ” mean respectively the plan and sections and the book of reference deposited in connection with the Bill for the Falmouth Docks Act 1949:

(2) No authorised work shall be constructed in such a way as to obstruct such passage as may be reasonably required by any vessel proceeding to the protected property from the sea or vice versa:

PART VII
—cont.

(3) If any question arises between the Company and the protected owner under the provisions of this section such question shall be referred to and determined by an arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers upon the application of either party (after notice in writing to the other) and the provisions of the Arbitration Act 1950 shall apply to any such arbitration.

Saving for town and country planning.

103. This Act shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act 1947 for the purposes of subsection (4) of section 13 and subsection (1) of section 118 of that Act.

Officers of customs to have free access to docks.

104. All officers of customs and excise being in the execution of their duty shall have free ingress and egress into and out of the dock estate and through the gates and entrances of the same and may freely pass and repass with their vessels and boats at all times when the state of the tide and water communications shall permit without payment of any toll or sum for so doing.

PART VIII

MISCELLANEOUS

Byelaws.

105.—(1) The byelaws which may from time to time be made by the Company in exercise of the powers in that behalf conferred on them by section 83 of the Harbours Clauses Act 1847 may provide for the imposing of a fine not exceeding forty shillings for the breach or non-observance of any of the byelaws.

(2) Notwithstanding the provisions of the Harbours Clauses Act 1847 relating to the procedure for the making and confirmation of byelaws by the Company the provisions of subsections (3) to (7) of section 250 and section 252 of the Local Government Act 1933 shall apply to all byelaws to be made by the Company in respect of the undertaking and in the application of such last-mentioned provisions the Minister shall be the confirming authority.

Recovery of demands.

106. Proceedings for the recovery of any demand made under the authority of this Act or any subsequent Act relating to the Company or any incorporated enactment whether provision is or is not made for the recovery in any specified court or manner may be taken in any county court having otherwise jurisdiction in the matter provided that the demand does not exceed the amount recoverable in that court in a personal action.

Inquiries by Minister.

107. The Minister may cause to be held such inquiries as he may consider necessary in regard to the exercise of any powers or duties conferred or imposed upon him and the giving of any consent or approval or the confirmation of any byelaw under

this Act and section 290 of the Local Government Act 1933 shall apply to any such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section and the Company were a local authority.

PART VIII
—cont.

108.—(1) Subject to the provisions of this Act the unrepealed provisions of the former Acts are hereby repealed.

(2) Notwithstanding the repeal effected by this section—

- (a) all property vested in the Company at the commencement of this Act shall continue vested in them and all acts works matters and things before the commencement of this Act done or commenced under the powers of the former Acts or any of them and which were at the commencement of this Act valid and available or in progress and all notices to treat and other notices served under the former Acts and all agreements awards conveyances contracts deeds instruments leases obligations restrictions conditions rights and remedies which at the commencement of this Act were existing and valid shall be and continue valid and available for and against all parties and may be continued enforced and completed as if this Act had not been passed;
- (b) all actions arbitrations prosecutions and proceedings by with or against the Company by reason of any matter or thing accruing or done before the commencement of this Act under or in execution of or in relation to the provisions of the former Acts or any of them may be continued commenced taken made or prosecuted by or against the Company as if this Act had not been passed;
- (c) all byelaws rules regulations orders licences scales of charges lists of rates and dues which at the commencement of this Act were existing and valid shall until repealed altered or revoked or until their expiration continue in force and may be enforced in like manner and with the same penalties as if made for like purposes respectively under the provisions of this Act;
- (d) all rates dues charges and other sums at the commencement of this Act due or accruing due to the Company or any other authority company body or person may be collected and recovered as if this Act had not been passed;
- (e) all books and documents which under any of the former Acts or otherwise would have been receivable in evidence shall be receivable in evidence as if this Act had not been passed;

PART VIII
—cont.

(f) any agreement or document relating to the provisions of any of the former Acts which are re-enacted in this Act shall be of full force and effect and shall be deemed to refer to the provisions in that behalf contained in this Act.

(3) The mention of particular matters in this Part of this Act shall not be held to prejudice or affect the general application of section 38 of the Interpretation Act 1889.

Costs of Act.

109. All costs charges and expenses of and incidental to the preparing applying for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

SCHEDULES

FIRST SCHEDULE

Section 52.

RATES ON VESSELS

First class

	s.	d.
Vessels with cargoes from any port or place in the United Kingdom Isle of Man or the Channel Islands with liberty to reload for any port or place.		
Rate per ton	0	4

Second class

Vessels with cargoes from any port or place in Europe between the North Cape and Ushant with liberty to reload for any port or place.		
Rate per ton	0	6

Third class

Vessels with cargoes from any other port or place in Europe or any port or place in the Mediterranean with liberty to reload for any port or place.		
Rate per ton	0	9

Fourth class

Vessels with cargoes from any port or place in Africa between the Straits of Gibraltar and the Cape of Good Hope or in the Madeira Canary or Cape de Verd Islands with liberty to reload for any port or place.		
Rate per ton	1	0

Fifth class

Vessels with cargoes from all other ports or places whatsoever with liberty to reload for any port or place.		
Rate per ton	1	3

Sixth class

(A) Vessels entering laden and departing without breaking bulk.		
Rate per ton	0	9
(B) Vessels discharging and reloading and departing with the same cargo.		
Rate per ton	0	6
(C) Vessels without cargoes or with only part of a cargo entering to load and not to discharge—		

The same rates as vessels with cargoes from the port or place to or from which the vessels so entering to load are destined or have come whichever rates are the higher.

1ST SCH
—cont.*Seventh class*

s. d.

(A) Vessels entering light or in ballast to lie up.		
Rate per ton	0 6
(B) Vessels entering with cargoes or parts of cargoes to lie up.		
Rate per ton	1 3
(C) Vessels entering light to fit out or for repairs.		
Rate per ton	0 6

Any vessel in this class afterwards loading out to pay also the like rates as vessels entering with cargoes from the port or place to which the vessel so loading out is destined.

Eighth class

Paddle vessels vessels of exceptional construction or method of propulsion and vessels in circumstances not otherwise covered by the provisions of this schedule such reasonable rates as may from time to time be fixed by the Company.

General provisions

In this schedule "per ton" means for each ton in the net register tonnage of a vessel or if the vessel has no net register tonnage for each measured ton of the vessel.

Every ship barge keel boat craft lighter or other vessel unloading from or discharging goods on board of any ship barge keel boat craft lighter or other vessel being within the tidal harbour or at or alongside any wharf quay pier slipway breakwater or other work of the Company shall pay such and the like rates in respect of the goods so unloaded or discharged as the rates which may be taken under the provisions of this Act in respect of goods shipped or unshipped within the tidal harbour in addition to any other rates payable under the provisions of this schedule.

Section 54.

SECOND SCHEDULE

DOCK RATES FOR SHIPS

PART I

	s. d.
For every ship with a cargo from any port in the United Kingdom or in the Isle of Man per register ton 0 4
For every ship with a cargo from any port or place in Europe except the Mediterranean or from any port in the British Empire or Commonwealth of Nations or United States of America 0 6
For every ship with a cargo from any port in the Mediterranean including Gibraltar 0 9

For every ship with a cargo from any port or place in the Atlantic Ocean as far south as the Cape of Good Hope or Cape Horn	s. d.	2ND SCH. —cont.
	0 9	
For every ship with a cargo from any port or place eastward of the Cape of Good Hope or westward of Cape Horn per register ton	1 0	
For every ship entering the docks for the sole and exclusive purpose of delivering or unloading ballast per register ton	0 2	

PART II

For every ship clearing for any port in the United Kingdom or the Isle of Man per register ton	0 4
For every ship clearing for any port in Europe except the Mediterranean or for any port in the British Empire or Commonwealth of Nations or United States of America per register ton	0 6
For every ship clearing for any other port or place than those above specified per register ton	0 9

THIRD SCHEDULE

Section 56.

PART I

WHARFAGE RATES ON GOODS

Articles	per	Maximum rates	
		s.	d.
Agricultural machinery and implements ...	ton	2	6
Almonds	ton	3	0
Apples	ton	2	0
Barilla	ton	2	0
Bark loose for tanning	ton	2	0
Beer in casks	ton	2	0
Bones for manure unpacked	ton	1	6
Brass wire	ton	3	0
Bricks and tiles common	1,000	1	6
„ paving or malkiln	100	0	9
„ fire	1,000	1	6
Brimstone	ton	1	6
Bristles	ton	3	6
Burr stones	100	0	8
Butter in firkins	ton	2	6
Carriages bodies not exceeding one ton ...	each	4	0
Cattle (cows oxen bulls bullocks)	each	2	0
Cattle food prepared not otherwise rated ...	ton	2	6
Cement	ton	1	6
Cheese	ton	2	6

3RD SCH.
—cont.

Articles	per	Maximum rates	
		s.	d.
Chicory	ton	2	6
China clay and china stone	ton	0	6
Cigars and cigarettes	ton	4	0
Coal	ton	0	4½
Coffee	ton	2	6
Coke cinders culm	ton	0	4½
Copper ore	ton	1	6
„ and brass	ton	2	6
Copper and brass nails wrought	ton	3	0
Cordage	ton	2	0
Corkwood	ton	2	6
Corn (barley maize oats rye and wheat)	ton	1	6
Cotton raw pressed	ton	3	6
Drugs not dangerous	ton	4	0
Eggs in crates or cases	ton	3	0
Fish cured	ton	2	6
Flax in bales	ton	2	0
Flour	2½ cwt. sack	0	2½
Fruit dried	ton	2	6
„ fresh not hothouse and not otherwise rated	ton	3	0
Fustic	ton	1	6
Glass crown rolled and sheet in boxes or cases	ton	3	0
Grease in casks	ton	2	0
Grindstones and millstones finished	ton	2	6
Guano	ton	1	6
Hemp pressed	ton	2	0
Hides and skins	ton	3	0
Hoofs and horns	ton	3	0
Hops	ton	3	0
Horses asses and mules	each	2	6
Iron bar	ton	1	6
„ bolt	ton	1	6
„ pig	ton	0	8
„ scrap	ton	1	6
„ ore	ton	0	4½
„ hoops	ton	1	6
„ girders and railway sleepers	ton	1	6
Kelp	ton	2	0
Lead sheet	ton	2	0
„ ore	ton	1	6
„ white or red	ton	2	0
Leather undressed	ton	2	6
Limestone in bulk	ton	0	4½
Lime in bulk	ton	0	6
Linen and linen manufactures	ton	4	0
Linseed	ton	1	6
Logwood	ton	1	6
Manganese ore	ton	0	6
Marble rough in blocks of 5 tons or less	ton	1	6
„ „ „ „ „ more than 5 tons	ton	5	0

Articles	per	Maximum rates		3RD SCH. —cont.
		s.	d.	
Mats bass	ton	3	0	
Molasses	ton	2	0	
Nitrate of soda	ton	1	6	
Oil not dangerous in casks or drums	ton	2	6	
Oil cake	ton	1	6	
Onions	ton	2	0	
Oranges and lemons	ton	2	6	
Paint and colours in iron drums	ton	2	6	
Pepper	ton	3	0	
Pork and beef in brine	ton	2	6	
Potatoes	ton	1	6	
Rags not oily	ton	1	6	
Rape seed	ton	2	6	
Rice	ton	1	6	
Rope old	ton	1	6	
Salt	ton	0	6	
Saltpetre	ton	2	0	
Seal skins	ton	4	0	
Seed clover	ton	2	6	
Sheep goats and swine	each	0	6	
Slates common	ton	1	6	
Soap	ton	2	0	
Spirits and wines	ton	4	0	
Sugar raw in bags cases and casks	ton	2	0	
„ refined	ton	3	0	
Tallow	ton	2	0	
Tar and pitch	ton	1	6	
Tea	ton	4	0	
Tiles draining	ton	0	6	
Tin ingots	ton	2	6	
Tobacco leaf	ton	3	0	
„ prepared	ton	4	0	
Toys	ton	4	0	
Turpentine crude	ton	2	0	
Vegetables dried or preserved in tins or bottles	ton	2	6	
Waters mineral	ton	2	6	
Whiting and whitening	ton	1	6	
Wood dyers	ton	1	6	
„ furniture	ton	4	0	
„ deals	standard	5	0	
„ timber fir	load	1	6	
„ oak	50 cu. ft. load	1	6	
„ staves	40 cu. ft. load	1	6	
	50 cu. ft.			
Wool raw pressed	ton	2	6	
Yarn	ton	2	6	
Yeast	ton	4	0	
Zinc ingots	ton	1	6	

3RD SCH.
—cont.

All goods not particularly enumerated in the above list shall be liable to the like rate or rates on the goods therein specified which in the judgment of the Company may be nearest in description and value to such unenumerated goods.

PART II
REGULATIONS

1. All weights and measures mentioned in Part I of this schedule save where specially excepted are imperial weights and measures.

2. Where goods are charged at per ton or at per cwt. or by other measure there shall be payable for any fraction of a ton a cwt. or other measure as the case may be the rate payable in respect of a whole ton or cwt. or other measure if the fraction exceeds one-half and half that rate if the fraction does not exceed one-half.

3. In weighing and measuring goods for ascertaining the rates payable in respect thereof the weight and measurement of the packing and packages (if any) shall be included.

4. Goods imported and transhipped direct into another vessel for export seawards shall be allowed a remission or drawback of the whole of the rate in respect of import and shall be liable to such rate (if any) in respect of export as the Company may determine not exceeding the rate specified in Part I of this schedule.

5. Any fraction of a penny in the total amount of rates payable at one time by any person may be charged as one penny.

Section 57

FOURTH SCHEDULE
DUES ON PASSENGERS AND LUGGAGE

For every passenger with his ordinary luggage not exceeding 56 lb. in weight who shall embark upon any vessel for any voyage to or land from any vessel after a voyage from—

	s.	d.
(a) any port in the United Kingdom or between the North Cape and Ushant the sum of	0	6
(b) any other port—		
(i) if a steerage passenger the sum of	1	0
(ii) if any other passenger the sum of	2	6

For all ordinary luggage of any such passenger beyond 56 lb. in weight any further sum not exceeding the rate of threepence per 28 lb. or part thereof.

Table of Statutes referred to in this Act

Short title	Session and chapter
Companies Clauses Consolidation Act 1845	8 & 9 Vict. c. 16.
Lands Clauses Consolidation Act 1845 ...	8 & 9 Vict. c. 18.
Railways Clauses Consolidation Act 1845	8 & 9 Vict. c. 20.
Harbours Docks and Piers Clauses Act 1847	10 & 11 Vict. c. 27.
Lands Clauses Consolidation Acts Amendment Act 1860	23 & 24 Vict. c. 106.
Duchy of Cornwall Management Act 1863	26 & 27 Vict. c. 49.
Companies Clauses Act 1863	26 & 27 Vict. c. 118.
Telegraph Act 1869	32 & 33 Vict. c. 73.
Telegraph Act 1878	41 & 42 Vict. c. 76.
Railway and Canal Traffic Act 1888 ...	51 & 52 Vict. c. 25.
Interpretation Act 1889	52 & 53 Vict. c. 63.
Merchant Shipping Act 1894	57 & 58 Vict. c. 60.
Electric Lighting (Clauses) Act 1899 ...	62 & 63 Vict. c. 19.
Merchant Shipping Act 1906	6 Edw. 7 c. 48.
Acquisition of Land (Assessment of Compensation) Act 1919	9 & 10 Geo. 5 c. 57.
Local Government Act 1933	23 & 24 Geo. 5 c. 51.
Sea Fisheries (Truro) Order Confirmation Act 1936	26 Geo. 5 & 1 Edw. 8 c. lxxxv.
Falmouth Docks Act 1939	2 & 3 Geo. 6 c. lxxx.
Borrowing (Control and Guarantees) Act 1946	9 & 10 Geo. 6 c. 58.
Town and Country Planning Act 1947 ...	10 & 11 Geo. 6 c. 51.
Companies Act 1948	11 & 12 Geo. 6 c. 38.
Lands Tribunal Act 1949	12 & 13 Geo. 6 c. 42.
Civil Aviation Act 1949	12 & 13 Geo. 6 c. 67.
Falmouth Docks Act 1949	12 & 13 Geo. 6 c. xxxvi.
Arbitration Act 1950	14 Geo. 6 c. 27.
Transport Charges &c. (Miscellaneous Provisions) Act 1954	2 & 3 Eliz. 2 c. 64.
Town and Country Planning Act 1954 ...	2 & 3 Eliz. 2 c. 72.

PRINTED BY THE SOLICITORS' LAW STATIONERY SOCIETY, LTD., FOR
SIR JOHN ROUGHTON SIMPSON, C.B.

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

PRINTED IN GREAT BRITAIN

Price 3s. 0d. net

Falmouth Docks Act, 1959

7 & 8 ELIZ. 2 Ch. xl

ARRANGEMENT OF SECTIONS

PART I

Section PRELIMINARY

1. Short title.
2. Division of Act into Parts.
3. Incorporation of Acts.
4. Interpretation.
5. Continued incorporation of Company.

PART II

WORKS AND LANDS

6. Works etc. to continue vested in Company.
7. Subsidiary works.
8. Works to form part of undertaking.
9. Certain works and reclaimed lands to be within parish and borough of Falmouth.
10. Works below high-water mark.
11. Lights on works during construction alteration etc.
12. Company to exhibit lights.
13. Provision against danger to navigation.
14. Abatement of work abandoned or decayed.
15. Survey of works by Minister.
16. As to floating dock.
17. Power to acquire lands by agreement.
18. Power to sell and lease lands etc.
19. Power to Company to grant leases.
20. Power to license erection of warehouses etc.
21. Power to lease graving docks.
22. Power to appropriate lands and works for particular trades etc.

PART III

GENERAL POWERS AND DUTIES OF THE COMPANY

23. Power to appoint and remove officers.
24. Limits.

Section

25. Power to repair vessels.
26. Power to dredge.
27. Removal of floating timber.
28. Powers with respect to disposal of wrecks.
29. Protection of Crown interests in wrecks.
30. As to spoilt goods.
31. Company may provide steamers tugs etc.
32. Company may provide engines etc.
33. Power to enter into agreements.
34. Power to lease undertaking or rates.
35. Further powers as to erection of buildings etc.
36. Laying of pipes etc.
37. Power to provide hotels etc.
38. Power to carry on warehouses etc.
39. Goods warehoused or deposited to remain subject to freight etc.
40. Notice may be given to Company to detain goods until freight etc. be satisfied or deposit made.
41. Deposit to be considered as made in payment of claim.
42. Notice to have effect for thirty days only unless action etc. be brought.
43. Power of sale if deposit be not made.
44. Period for giving notice to detain goods.
45. Company may sell goods for payment of rates etc. or may bring action.
46. Restrictions as to time of sale for recovery of charges.
47. Sale of perishable goods.
48. Application of proceeds of sale of perishable goods.
49. Notice of intention to sell goods.
50. Company may issue certificates of deposited goods and delivery warrants.
51. Warrants etc. signed by duly authorised officers sufficient.

PART IV

RATES AND DUES

52. Harbour rates on shipping.
53. Remission of portion of harbour rates on shipping.
54. Dock rates on shipping.
55. Additional harbour and dock rates on vessels remaining more than two weeks.
56. Rates on goods.
57. Dues for passengers and luggage.
58. Dues for persons walking on pier or landing-places.
59. Payment etc. of rates on seaplanes.
60. Rates for use of graving docks slips inclined planes engines shears etc.
61. Rates for use of warehouses cranes weighing-machines etc.

Section

62. Charges for services rendered by Company etc.
63. Recovery of rates.
64. Power to compound for rates.
65. Power to revise rate not affected by transfers.
66. Charges on Company's railways.
67. Increased railway tolls by agreement.

PART V

FINANCIAL

68. Capital.
69. As to existing capital.
70. As to unexercised powers of raising capital.
71. Share capital created to raise unissued capital to be part of general share capital.
72. Dividend on preference shares.
73. Power to borrow.
74. Debenture stock.
75. Priority of mortgages and debenture stock over other debts.
76. Appointment of receiver.
77. Receipt in case of persons not sui juris.
78. Application of moneys.

PART VI

ADMINISTRATIVE

79. Annual general meeting and yearly accounts.
80. Dividends.
81. As to accounts.
82. Closing of transfer books previous to declaring dividend or paying interest.
83. Quorum of general meetings.
84. Voting rights.
85. Number of directors.
86. Quorum of directors' meeting.
87. Committees of directors.
88. Qualification of directors.
89. Notice of candidature for office of director.
90. Continuing directors.
91. Directors not to be disqualified from entering into contracts etc.
92. Auditors.
93. Determination of remuneration of secretary and auditors.
94. Appointment of proxies.
95. Joint holders.
96. As to shareholders' register.

PART VII

PROTECTIVE PROVISIONS AND SAVINGS

Section

- 97. Crown rights.
- 98. Saving rights of Duchy of Cornwall.
- 99. Saving for powers of Treasury.
- 100. For protection of Postmaster-General.
- 101. Saving rights of Falmouth Harbour Commissioners.
- 102. For protection of Harvey and Company Limited.
- 103. Saving for town and country planning.
- 104. Officers of customs to have free access to docks.

PART VIII

MISCELLANEOUS

- 105. Byelaws.
- 106. Recovery of demands.
- 107. Inquiries by Minister.
- 108. Repeal.
- 109. Costs of Act.

SCHEDULES:

First Schedule—Rates on vessels.

Second Schedule—Dock rates for ships.

Part I.

Part II.

Third Schedule—

Part I—Wharfage rates on goods.

Part II—Regulations.

Fourth Schedule—Dues on passengers and luggage.