



CHAPTER xxxiii

An Act to amend the constitution of the Dartmouth Harbour Commissioners to make provision with respect to the rates rents and charges leviable by the Commissioners to confer upon the Commissioners additional powers to consolidate with amendments the statutory powers of the Commissioners and for other purposes. [1st August 1951.]

WHEREAS by the Dartmouth Harbour Acts 1863 to 1922 (hereinafter referred to collectively as "the former Acts" and severally as the Act or Order of the year in which it was passed or approved by Parliament) a list of which Acts and Orders is given in section 95 of this Act various powers have from time to time been conferred upon the Dartmouth Harbour Commissioners (hereinafter referred to as "the Commissioners") who were incorporated by the Order of 1863 for the purposes therein mentioned:

And whereas the Commissioners now consist of thirteen members of whom two are appointed by the Minister of Transport one is appointed by the Admiralty four are elected by the Dartmouth Corporation one is appointed by the parish council of Kingswear two are appointed by the British Transport Commission (as successors to the Great Western Railway Company) one is elected by the persons partnerships or companies qualified to elect the embankment member and two are elected by the persons partnerships or companies qualified to elect the harbour members as defined respectively in the Act of 1922:

And whereas it is expedient to make provision for the alteration of the constitution of the Commissioners as in this Act provided:

And whereas it is expedient that the rates and tolls on vessels animals and goods and the rates on passengers and the other

charges leviable by the Commissioners in pursuance of the former Acts should be amended and increased and that further or new provision as in this Act contained should be made with respect to such rates tolls and charges:

And whereas it is expedient that the percentage of certain of the said rates tolls and charges payable by the Commissioners to the corporation in substitution for and in satisfaction of the tolls or other duties which were leviable by the corporation in respect of the use of the site of Dartmouth Quay (before that quay was constructed by the Commissioners in pursuance of the provisions of the Act of 1881) should be amended to meet the increased cost of maintenance of the said quay which is now the responsibility of the corporation (the said quay having been purchased by the corporation from the Commissioners in pursuance of the provisions of section 19 of the Act of 1882):

And whereas it is expedient that further and new provision should be made with respect to such rates tolls and charges in respect of which a percentage is to be paid by the Commissioners to the corporation:

And whereas by the Order of 1894 the Commissioners were authorised to raise moneys on bond or on mortgage on security of the rates dues tolls and charges leviable by them and of the other revenues of their undertaking by borrowing a sum or sums not exceeding £35,000:

And whereas the Commissioners have borrowed moneys in exercise of that power all of which has been repaid:

And whereas it is expedient to empower the Commissioners to raise further moneys for the purposes of their undertaking and to make further provision with respect to their finances:

And whereas it is expedient that further power should be conferred on the Commissioners with respect to the regulation and improvement and use of Dartmouth Harbour:

And whereas it is expedient that the other powers in this Act contained should be conferred on the Commissioners:

And whereas it is expedient that the other provisions of this Act be enacted:

And whereas many of the provisions of the former Acts no longer have practical effect and ought to be repealed and it would be of local and public advantage if such of the provisions of the former Acts as it is deemed expedient to retain were consolidated with certain amendments and additions into one Act:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it enacted by the King'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

1. This Act may be cited as the Dartmouth Harbour Act 1951. Short title.
2. This Act is divided into Parts as follows:— Division of
Act into Parts.
 - Part I.—Preliminary.
 - Part II.—Constitution appointment and election of Commissioners.
 - Part III.—Limits of harbour and powers of Commissioners.
 - Part IV.—Financial.
 - Part V.—Rates and charges.
 - Part VI.—Miscellaneous.
3. The following Acts (so far as the same are applicable for Incorporation the purposes and are not inconsistent with the provisions of this of Acts. Act) are hereby incorporated with this Act (namely):—
 - (1) The Commissioners Clauses Act 1847 except sections 6 10 & 11 Vict. to 10 sections 16 to 33 section 84 and sections 95 to 98: c. 16.
 - (2) The Harbours Clauses Act 1847 except section 25 and 10 & 11 Vict. sections 84 to 90 Provided that— c. 27.
 - (i) in construing the said Act the expression “the harbour dock and pier” shall mean the harbour as defined in this Act;
 - (ii) the provisions of sections 16 to 19 of the said Act shall not be in force unless and until the Commissioners shall be required by the Minister to provide and maintain a lifeboat a tide gauge and a barometer;
 - (iii) in the application of the said Act to this Act the word “vessel” shall have the meaning given to that word by section 4 (Interpretation) of this Act;
 - (iv) nothing in the said Act shall require or authorise the harbour master or any other officer to require the dismantling of a seaplane or any part thereof or the making of any alteration whatever in the structure or equipment of a seaplane.
4. In this Act unless there be something in the subject or Interpretation. context repugnant to such construction—

“authorised rates” means the rates which the Commissioners are for the time being authorised to demand

PART I
—cont.

receive and recover in pursuance of this Act or any order made under section 72 (Revision of rates) of this Act ;

“ the clerk ” means the clerk to the Commissioners ;

“ the Commissioners ” means the Dartmouth Harbour Commissioners ;

“ the corporation ” means the mayor aldermen and burgesses of the borough of Clifton-Dartmouth-Hardness commonly called “ Dartmouth ” ;

“ the council ” means the council of the corporation ;

“ the county council ” means the county council of the administrative county of Devon ;

“ Dartmouth Quay ” means the quay river wall and embankment constructed by the Commissioners on the right bank of the river Dart at Dartmouth under the provisions of the Dartmouth Harbour Improvement Act 1882 ;

45 & 46 Vict.
c. cc.

“ the district council ” means the urban district council of Brixham ;

“ the embankment member ” and “ the harbour members ” mean respectively the Commissioner or the Commissioners from time to time elected in accordance with the provisions of this Act by the persons by this Act qualified to elect the embankment member and the harbour members respectively ;

“ the harbour ” means Dartmouth Harbour the limits whereof are defined in section 32 (Limits of harbour) of this Act ;

“ the Harbours Clauses Act 1847 ” means the Harbours Docks and Piers Clauses Act 1847 ;

“ the harbour office ” means the principal office for the time being of the Commissioners ;

“ master ” where used with reference to a vessel includes the owner of and agent or broker for the vessel and any charterer to whom the vessel is demised ;

“ owner ” where used with reference to goods includes the consignor consignee importer shipper exporter receiver broker or agent for sale or custody of the goods ;

“ the Minister ” means the Minister of Transport ;

“ the parish council ” means the parish council of Kingswear ;

“ the revenues of the Commissioners ” includes all rates rents charges contributions and revenues receivable by the Commissioners ;

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

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

- (1) the Parliament Office of the House of Lords ;
- (2) the Private Bill Office of the House of Commons ;
- (3) the principal office of the Commissioners ;
- (4) the Ministry of Transport ;

“ statutory securities ” means any securities in which trustees are for the time being authorised by law to invest trust moneys and any mortgages bonds debentures debenture stock stock or other securities created by a local authority as defined by section 34 of the Local Loans Act 1875 but does not include annuities rentcharges or securities transferable by delivery ; 38 & 39 Vict. c. 83.

“ the transport commission ” means the British Transport Commission and any reference to the transport commission in relation to any functions of that commission which are for the time being delegated to an executive in pursuance of section 5 of the Transport Act 1947 shall be construed as a reference to that executive ; 10 & 11 Geo. 6. c. 49.

“ the undertaking ” means the undertaking of the Commissioners as authorised from time to time ;

“ vessel ” includes any vessel ship lighter keel barge boat raft pontoon and craft of any kind howsoever navigated propelled or moved and any seaplane on the surface of the water.

PART II

CONSTITUTION APPOINTMENT AND ELECTION OF COMMISSIONERS

5. Notwithstanding any repeal effected by this Act each of the persons holding office as a Commissioner at the passing of this Act shall unless he shall previously die or resign or become disqualified to be a Commissioner continue to hold that office as in this section provided (namely):— Present Commissioners continued in office.

The Commissioners appointed by the Minister the Admiralty the transport commission and the parish council until and including the first day of June nineteen hundred and fifty-two ;

PART II
—cont.

The Commissioners appointed by the council in the years nineteen hundred and forty-eight and nineteen hundred and forty-nine until and including the first day of June nineteen hundred and fifty-three ;

The Commissioners appointed by the council in the years nineteen hundred and fifty and nineteen hundred and fifty-one until and including the first day of June nineteen hundred and fifty-four ;

The Commissioners elected by the persons partnerships or companies qualified to elect the harbour members and the embankment member until and including the first day of June nineteen hundred and fifty-two.

Constitution of
Commissioners.

6. The Commissioners shall be constituted of—

Two Commissioners appointed by the Minister ;

One Commissioner appointed by the Admiralty ;

Six Commissioners appointed by the council ;

One Commissioner appointed by the district council ;

One Commissioner appointed by the parish council ;

Two Commissioners appointed by the transport commission ;

One Commissioner elected by the persons partnerships or companies by this Act qualified to elect the embankment member ;

Two Commissioners elected by the persons partnerships or companies by this Act qualified to elect the harbour members.

Commissioners
to continue
incorporated.

7. Notwithstanding any repeal effected by this Act the several persons who from time to time are under this Act or any subsequent Act amending or extending this Act holding office as Commissioners shall (subject to the provisions of any such subsequent Act) continue incorporated by the name of "the Dartmouth Harbour Commissioners" and by that name 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 of this Act and to put into execution the provisions of this Act so far as they are to be executed by the Commissioners.

Property to
continue
vested in
Commissioners.

8. Notwithstanding any repeal effected by this Act all the estate right title and interest of the Commissioners in and to all real and personal property which were immediately before the passing of this Act vested in the Commissioners shall continue vested in them as if this Act had not been passed.

9. Notwithstanding any repeal effected by this Act—

PART II
—cont.

- (1) All deeds conveyances grants assurances assignments leases purchases sales mortgages bonds covenants agreements securities and contracts and all working arrangements entered into or made and subsisting at the passing of this Act and then in force including any agreement or contract modified or varied by any repealed enactment and then in force as so modified or varied and all liabilities and obligations incurred before the passing of this Act and except where otherwise expressly provided in this Act all the provisions of any Act of Parliament (other than the repealed enactments) relating to the Commissioners or their undertaking and in force at the date of the passing of this Act shall be as binding and of as full force and effect in every respect against or in favour of the Commissioners as they would or might have been against or in favour of the Commissioners if this Act had not been passed ;
- (2) Any action suit prosecution or other proceeding commenced before the passing of this Act either by or against the Commissioners shall not abate or be discontinued or prejudicially affected by this Act but shall continue and take effect both in favour of and against the Commissioners in like manner to all intents as if this Act had not been passed ;
- (3) Every officer and servant of the Commissioners appointed or continued in his employment by virtue of or acting under any of the enactments repealed by this Act shall hold and enjoy his office and employment with the salary and emoluments thereunto annexed and be deemed an officer or servant of the Commissioners as the case may be until he shall vacate or be removed from such office or employment and he shall have the same rights and privileges and be subject to the same conditions of service powers of removal rules regulations pains and penalties as he would have had or been subject to if this Act had not been passed subject nevertheless and without prejudice to any powers authorities obligations pains or penalties vested in him or to which he may be subject under any provisions of this Act ;
- (4) The Commissioners shall for the purposes of this Act be and continue seised and possessed of and entitled to all things in action claims and demands whatsoever of or to which the Commissioners were seised possessed or entitled immediately before the passing of this Act ;

PART II
—cont.

- (5) All rates on passengers vessels and goods warehousing and other charges tolls fees rents fines forfeitures penalties damages and other sums of money at the passing of this Act due or accruing due to the Commissioners may be collected and recovered by the Commissioners as if this Act had not been passed ;
- (6) All books and documents which if this Act had not been passed would have been receivable in evidence shall be receivable in evidence as if this Act had not been passed ;
- (7) All byelaws rules regulations and rates made or imposed by the Commissioners or the corporation under any enactment so repealed and now enforceable by the Commissioners or the corporation shall so far as they are not inconsistent with the provisions of this Act and until repealed altered or superseded remain in force in like manner and to the like extent as if this Act had not been passed ;
- (8) Everything before the passing of this Act done suffered and confirmed respectively shall be as valid as if this Act had not been passed.

Appointed
Commissioners. **10.—(1) (a)** On or before the twentieth day of May in the year nineteen hundred and fifty-two and on or before the twentieth day of May in each succeeding third year the Minister the Admiralty the transport commission and the parish council shall appoint the respective number of Commissioners specified in section 6 (Constitution of Commissioners) of this Act to be appointed by each such person or authority and each such Commissioner shall hold office from the second day of June following his appointment for the ensuing three years unless he shall previously die resign become disqualified or otherwise cease to be a Commissioner.

(b) At the annual meeting of the council held in May in the year nineteen hundred and fifty-two and in May in each succeeding year the council shall appoint two Commissioners each of whom shall hold office from the second day of June following his appointment for the ensuing three years unless he shall previously die resign become disqualified or otherwise cease to be a Commissioner.

(c) At the annual meeting of the district council held in May in the year nineteen hundred and fifty-two and in May in each succeeding third year the district council shall appoint one Commissioner who shall hold office from the second day of June following his appointment for the ensuing three years unless he shall previously die resign become disqualified or otherwise cease to be a Commissioner.

(2) (a) Each person appointed a Commissioner by a constituent council shall be a member of the constituent council by whom he is appointed and in the event of his ceasing to be a member of such constituent council he shall notwithstanding the foregoing provisions of this section thereupon cease to be a Commissioner.

(b) In this subsection the expression "constituent council" means the council the district council or the parish council.

(3) If any vacancy shall arise in the office of an appointed Commissioner the authority body or person in whom the appointment is vested shall with all convenient speed appoint another person to be a Commissioner and the person so appointed shall be entitled to hold office so long only as the Commissioner in whose stead he is appointed would have been entitled to have continued in office.

(4) All appointments under this section shall be made in writing and may at any time be determined by the person or authority in whom the appointment is vested. On the expiry of his term of office an appointed Commissioner shall if qualified be eligible for re-appointment.

11.—(1) The embankment member and the harbour members shall be elected in the manner provided by this Act in the month of May nineteen hundred and fifty-two and in the month of May in every third year thereafter.

Election of
embankment
and harbour
members.

(2) Each person elected pursuant to the provisions of this Act shall hold office from the second day of June following his election for the ensuing three years unless he shall previously die resign become disqualified or otherwise cease to be a Commissioner and on the expiry of his term of office shall if qualified be eligible for re-election.

12. Subject to the provisions of section 13 (Disqualification of Commissioners) of this Act each person fulfilling the following conditions shall be qualified to be an embankment member or a harbour member respectively (namely) (a) having by himself or by any person on his behalf paid or being partner in a firm or director or local agent of a company which has paid to the Commissioners rates or rents under section 63 (Rates and rents on goods) or section 64 (Rates on passengers and luggage) of this Act to the amount of two pounds or upwards during the twelve months ending on the thirty-first day of December immediately preceding the day of election or (b) being at the date of nomination the owner or co-owner or a director or local agent of a company who is the owner of a vessel registered or stationed at or habitually using the harbour to the amount of twenty-five register tons or upwards on which rates under section 65 (Harbour rates on vessels) or section 66 (Quay rates

Qualification of
embankment
and harbour
members.

PART II
—cont.

on vessels) of this Act have been paid to the Commissioners during the twelve months ending the thirty-first day of December immediately preceding the day of election and (in each case) being at the date of nomination either a ratepayer of the borough of Dartmouth or having a place of residence within a radius of twenty miles of the town hall at Dartmouth. Provided that only one partner in any firm or one director of any company shall be qualified to be a candidate by the payment of rates by that firm or company and in case more than one partner in any firm or more than one director of any company are nominated at any election the nomination of the partner or director first nominated shall alone be valid unless any other partner or director nominated shall be otherwise qualified.

Disqualifica-
tion of
Commissioners.

13.—(1) A person shall be disqualified from being or acting as a Commissioner if—

- (i) he is an infant or alien ; or
- (ii) he holds or accepts any office or place of profit under the Commissioners ; or
- (iii) he is adjudged bankrupt or makes a composition or arrangement with his creditors or becomes of unsound mind ; or
- (iv) the company through or as representing which he derives his qualification is not registered in England or if an order has been made or a binding resolution passed for the winding-up of such company ; or
- (v) he is concerned or participates in any manner in any contract or in the profit thereof or in any work to be done under the authority of the Commissioners. Provided that no person being a member of a company shall be disqualified from holding office as a Commissioner by reason of any contract entered into between such company and the Commissioners but no such Commissioner being a member of such company shall vote on any question relating to the execution of any such contract ; or
- (vi) for six months after he comes into office he neglects to make and subscribe the declaration required by section 14 of the Commissioners Clauses Act 1847 ; or
- (vii) for six months in succession he is absent from all meetings of the Commissioners.

(2) Notwithstanding anything in subsection (1) of this section if the Commissioners shall grant to any member of their body leave of absence from all meetings of the Commissioners for a period exceeding six months such Commissioner shall not cease to be a Commissioner by reason of his neglect to make and

subscribe the declaration required by section 14 of the Commissioners Clauses Act 1847 or of his absence from all meetings of the Commissioners during the period for which leave of absence is so granted.

PART II
—cont.

14. The qualification of electors of the embankment member and the harbour members shall subject to the provisions of this Act be regulated as follows (that is to say):—

Qualification
of electors of
embankment
and harbour
members.

(1) Every person who shall have paid to the Commissioners rates or rents under section 63 (Rates and rents on goods) or section 64 (Rates on passengers and luggage) of this Act of the sum of two pounds or upwards during the twelve months ending the thirty-first day of December immediately preceding the day of election shall be qualified to vote for the embankment member according to the following scale (that is to say) one vote for the first five pounds so paid or any part thereof not being less than two pounds and an additional vote for each additional twenty-five pounds so paid or any part thereof above the first five pounds:

(2) (a) Every person being the owner of a vessel registered or stationed at or habitually using the harbour to the amount of twenty-five register tons or upwards on which rates under section 65 (Harbour rates on vessels) or section 66 (Quay rates on vessels) of this Act to the amount of two pounds or upwards have been paid to the Commissioners during the twelve months ending the thirty-first day of December immediately preceding the day of election shall be qualified to vote for each of the harbour members according to the following scale (that is to say) one vote in respect of the first twenty-five tons of register tonnage or any part thereof and an additional vote for each additional fifty tons or any part thereof above the first twenty-five;

(b) The whole amount of tonnage so owned by each person shall be added together and if sufficient shall constitute his or their qualification:

(3) In the case of a partnership or body corporate or co-ownership the votes of such partnership or body or co-ownership shall be entered on the appropriate list to be made in accordance with section 18 (Lists of electors of embankment and harbour members to be made out) of this Act in the name of such partnership or body or co-ownership and shall be given as if they were the votes of one individual:

(4) In the case of a person trading either in a partnership name or in any other name other than his own the

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—cont.

trade or partnership name of such person shall be inserted in the appropriate list and such person shall vote in the name so appearing:

(5) No person shall be entitled to more than six votes in all in respect of each vacancy to be filled.

Registers.

15. The clerk shall subject to the provisions of this Act prepare and keep separate annual registers of the persons mentioned in section 14 (Qualification of electors of embankment and harbour members) of this Act and shall from time to time insert therein the names and addresses of all persons entitled to be included in such registers respectively together with particulars of the amounts from time to time paid to the Commissioners by each such person for rates and rents on account of goods or for rates on the tonnage of vessels in respect of which they are entitled to vote respectively.

Custody of registers.

16. The registers shall be kept at the harbour office and shall be in charge of the clerk and each register shall immediately before the preparation of the list of electors to be compiled therefrom be certified in writing by the clerk as containing to the best of his knowledge and belief correct particulars in accordance with the provisions of this Act.

Qualification etc. of embankment and harbour members and electors at 1952 election.
26 & 27 Vict. c. 104.
12 & 13 Geo. 5. c. lvii.

17. For the purposes of the qualification of the embankment member and the harbour members to be elected in the month of May nineteen hundred and fifty-two and of the electors entitled to vote at that election and the preparation printing and revision of the registers and lists of such electors the payments of rates in respect of goods under section 10 (Rates in Schedule A) of the Dartmouth Harbour Order 1863 or section 30 (Rates and tolls at Corporation Quay) of the Dartmouth Harbour Act 1922 or of coal tolls under section 38 (Coal duties) of the Dartmouth Harbour Improvement Act 1882 during any part of the twelve months ending the thirty-first day of December nineteen hundred and fifty-one shall be deemed to be the payment of rates or rents under section 63 (Rates and rents on goods) of this Act and the payment of rates in respect of vessels under the said section 10 or section 15 (Rates in Schedule B) of the said Order of 1863 or the said section 30 of the said Act of 1922 during any part of the twelve months ending the thirty-first day of December nineteen hundred and fifty-one shall be deemed to be the payment of rates under section 65 (Harbour rates on vessels) of this Act.

Lists of electors of embankment and harbour members to be made out.

18. On or before the thirty-first day of January nineteen hundred and fifty-two and in every third year thereafter the clerk to the Commissioners shall from the registers aforesaid make up two separate alphabetical lists of the persons entitled to vote

as electors of embankment and harbour members respectively with the number of votes to which they are respectively entitled and on or before the same day shall cause each such list to be printed and to be posted on the outer door of the harbour office for seven days thereafter and printed copies of each such list shall be kept at such office for public inspection and on payment of such sum as the Commissioners think reasonable not exceeding two shillings for each copy the Commissioners shall deliver a printed copy of each list to every person requiring it.

19.—(1) On or before the first day of March nineteen hundred and fifty-two and on or before the first day of March in each succeeding third year the Minister shall on the request of the Commissioners appoint a person to be reviser of the lists of electors of the embankment member and the harbour members made out as hereinbefore provided.

Revision of
lists of
electors of
embankment
and harbour
members.

(2) The reviser shall within seven days next after the seventh day of March nineteen hundred and fifty-two and within seven days next after the seventh day of March in each succeeding third year revise at the office of the Commissioners the lists of electors of the embankment member and the harbour members made out under this Act and notice of the time appointed for the commencement of such revision shall be posted on the outer wall of the harbour office on every day for the five days before the day so appointed and shall be advertised at least once during such five days in one or more local newspapers published or circulating in Dartmouth.

(3) On every such revision any person whose name is not inserted in the appropriate list may in person or by his agent claim to have his name inserted therein and any person whose name is or ought to be inserted in either of the lists may in person or by his agent claim to have the number of votes attributed or to be attributed to him corrected or correctly inserted therein and may object to the name of any person being retained or inserted in that list or to such person having the number of votes therein attributed to or claimed by him.

(4) Notice in writing of any such claim or objection shall be left with or sent by registered post by the person making the same to the clerk at the harbour office and (in the case of an objection) to the person whose name or number of votes is challenged at his place of business or if none at his residence on or before the first day of March in which the revision is to take place as the case may require or in each case on or before such later date as the reviser may approve but the reviser shall not consider any such objection until he is satisfied that the person affected thereby has had a reasonable opportunity of being heard thereon.

PART II
—cont.

(5) The reviser shall in pursuance of such applications and objections as aforesaid and after affording reasonable opportunity to the parties affected thereby to be heard as above provided correct the lists of electors of the embankment member and the harbour members by inserting in the appropriate list the name of any person which is not in that list and which it is shown to his satisfaction ought to be therein and by erasing therefrom the name of any person which is therein and which it is shown to his satisfaction ought not to be therein and by altering correcting or erasing any entry which it is shown to his satisfaction is inaccurate and by inserting any entry which it is shown to his satisfaction ought to be therein. And the reviser shall also strike out the name of any person shown to his satisfaction to be dead and shall correct clerical and other errors (if any) in any list so as to bring the same into conformity with the facts.

(6) The decision of the reviser with respect to the lists shall be final and conclusive and the reviser shall forthwith after every revision sign his name at the foot of the lists revised and if the reviser neglects to complete the revision as provided by this Act he shall be liable to a penalty not exceeding fifty pounds.

Commissioners
to produce
books etc.
to reviser.

20. For the purposes of the revision the Commissioners shall produce to the reviser such of their books accounts and papers as the reviser may require and shall afford to the reviser all reasonable and proper facilities for revising the lists in pursuance of this Act.

Evidence of
revised list.

21. Every list purporting to be a list revised according to this Act and signed by the reviser shall be prima facie evidence of the same being a list duly revised and signed according to this Act and of all the provisions of this Act relating to such list or to the revision thereof having been duly complied with.

Continuance of
revised lists.

22. Every revised list shall be in force until the revision of the then next list and the persons whose names appear on the revised list from time to time in force shall be the persons entitled to vote at elections of Commissioners under this Act and shall at every such election be respectively entitled to such number of votes as appears by the revised list.

Revised lists to
be conclusive
evidence of
right to vote.

23. The revised lists shall be conclusive evidence that the persons therein named and no others are entitled to vote at the election of the embankment member and the harbour members respectively to be held in that year and that the persons named in each such list are entitled to the number of votes stated therein.

Printing and
sale of
revised lists.

24. Every revised list of electors of the embankment member and the harbour members shall within seven days from the

revision thereof be printed by the Commissioners and thenceforth until the day of election the Commissioners shall cause printed copies thereof to be sold at a reasonable price (not exceeding two shillings for each copy) to all persons desiring to buy the same.

PART II
—cont.

25. With respect to the election of the embankment member and the harbour members the following provisions shall have effect:—

Election of
embankment
and harbour
members.

- (1) The clerk shall be the returning officer whose decision in reference to any question arising shall be final:
- (2) Twenty-eight days at least prior to the day of election the returning officer shall give public notice requiring the names of candidates to be sent in to him. Such notice shall be printed and posted on a board to be affixed on the outer wall of the harbour office and in addition thereto shall be inserted in a local newspaper published or circulating in Dartmouth and Brixham twice at least before the time for nomination of candidates shall expire:
- (3) Fourteen days at least prior to the day of election the name of each candidate shall be intimated to the returning officer in the form A or the form C (as the case may require) set forth in the First Schedule to this Act or to the like effect and such form shall be signed by two electors of the embankment member or of the harbour members (as the case may be) and by the candidate in approval of his nomination. Provided that no candidate shall be his own nominator:
- (4) Any candidate may withdraw from his candidature by notice signed by him and delivered to the returning officer by four o'clock in the afternoon of the day immediately succeeding the last day for sending in nominations:
- (5) If at four o'clock in the afternoon of the day immediately succeeding the last day for sending in nominations the number of duly qualified candidates is not more than the number of vacancies to be filled there shall be no poll and the returning officer shall on the day of election declare the candidate or candidates as the case may be duly elected but if the number of duly qualified candidates is more than the number of vacancies to be filled a poll shall be taken in the manner hereinafter provided:
- (6) Seven days at least prior to the day of election the returning officer shall in the event of a poll send by post to each elector at the address given in the respective lists of electors of the embankment member and the

PART II
—cont.

harbour members hereinbefore provided for a voting paper in the form B or the form D (as the case may require) set forth in the First Schedule to this Act or to the like effect (with such variations as may be necessary in the case of a by-election of a harbour member) containing the names of the candidates and the votes of such electors shall be recorded in accordance with the directions in the said form :

- (7) Every elector may vote for as many candidates of the class for whom he is entitled to vote as there are members of that class to be elected and the returning officer shall in summing up the votes allow to each of the candidates so voted for the number of votes to which the elector is entitled according to the list of electors :
- (8) The votes of a partnership or of a person trading in a partnership name or in any other name other than his own name shall be given in the partnership or trade name :
- (9) It shall not be competent to use any voting paper or to reckon the same for the purposes of any poll unless it has been delivered by post or otherwise to the returning officer in a sealed envelope addressed to him so that the same shall be received by him at the harbour office not later than the day before the day of election :
- (10) On the day of election and not before the voting papers shall be opened and the votes shall be counted by the returning officer and the candidate or candidates who shall be found to have the greatest number of valid votes shall be declared by the returning officer the duly elected embankment member and harbour members respectively :
- (11) Any candidate or an agent appointed by him in writing may be present at the opening of the voting papers and counting of the votes :
- (12) The returning officer shall make a return under his hand to the Commissioners of the persons elected and every person so returned shall be deemed duly elected and in case of an equality of votes the returning officer shall determine by lot between the candidates so equal :
- (13) In the event of the requisite number of embankment and harbour members not being elected at any election the Commissioners shall within one month thereafter at a special meeting elect a member to fill each vacancy.

Filling up of
extraordinary
vacancies.

26.—(1) Subject as hereinafter mentioned if any elected Commissioner continued in office under section 5 (Present Commissioners continued in office) of this Act or elected as a

Commissioner pursuant to the provisions of this Act shall during his term of office as a Commissioner die resign become disqualified or otherwise cease to be a Commissioner the Commissioners shall convene a special meeting of the proper class of electors for the election of an embankment member or a harbour member as the case may be to supply the vacancy and the proceedings at all such special meetings shall be conducted as nearly as may be in the same manner as the proceedings at triennial elections Every person elected a Commissioner under this section shall be entitled to hold office so long only as the Commissioner in whose stead he is elected would have been entitled to continue in office but shall if qualified be eligible for re-election.

(2) If a vacancy occurs after the thirty-first day of January in the year in which the embankment member and the harbour members are to go out of office and before the triennial election in that year the vacancy shall not be filled until that triennial election.

27. Any act of the Commissioners or of any member thereof shall not be invalid or illegal by reason of any irregularity in the nomination or election of any member or by reason of the non-delivery of or the too late delivery of or any error in any list of electors or by reason of any irregularity in the making or publishing of any such list or any notice in respect thereof or by reason of any failure or omission on any occasion to elect any member or by reason of any other irregularity error failure or omission in or about any nomination or election or in or about any matter preliminary or incidental thereto.

Errors in
elections etc.
not to vitiate
acts of
Commissioners.

28. Meetings of the Commissioners shall be held at the harbour office at least once in every month on such days and at such times as the Commissioners shall from time to time appoint and the annual meeting shall be held on the first day of June in each year or on such other day in June as the Commissioners shall from time to time appoint.

Meetings of
Commissioners.

29. The expenses incurred by the Commissioners in the making preparing printing and revising of the lists of electors and in any way incidental thereto including a fee not exceeding three guineas to the reviser and the costs and expenses of the Minister in connection with the appointment of the reviser and the expenses incurred by the Commissioners in printing and sending voting papers or otherwise in relation to elections under this Act shall be defrayed by the Commissioners as part of their ordinary expenses.

Expenses of
revision of
lists and
elections.

30. The Commissioners may hold special meetings and the chairman of the Commissioners for the time being or any three or more Commissioners may at any time by writing delivered

Special
meetings of
Commissioners.

PART II
—cont.

to the clerk require a special meeting to be convened and the clerk shall convene a meeting accordingly and shall give at least three clear days' notice thereof to each Commissioner.

Where day for any proceeding falls on Sunday etc. proceeding to be taken on next day.

31. Where by this Act any proceeding or act is directed or allowed to be taken or done on a certain day then if that day happens to be a Sunday Christmas Day Good Friday any bank holiday under the Bank Holidays Act 1871 or any day appointed for public thanksgiving or mourning the proceeding or act shall be considered as taken or done in due time if it is taken or done on the next day afterwards not being one of the days hereinbefore specified.

PART III

LIMITS OF HARBOUR AND POWERS OF COMMISSIONERS

Limits of harbour.

32.—(1) The limits within which the Commissioners shall have authority shall extend from the ferry at Dittisham in the county of Devon in a straight line across the river Dart to Greenway in the parish of Churston Ferrers in the same county southward to the mouth of the harbour to the point called the Outer Froward Point at the eastern entrance of the harbour in a straight line to the point called Coombe Point at the western entrance of the harbour and are shown coloured blue on the signed plan.

(2) In case of any discrepancy between the limits delineated on the signed plan and the limits described in subsection (1) of this section the signed plan shall be deemed to be correct and shall prevail.

Maintenance and improvement of harbour.

33. Subject to the provisions of this Act the Commissioners may from time to time construct erect and maintain on any land for the time being belonging to them and may alter and improve all necessary and convenient jetties landing places approaches steps warehouses offices sheds and other buildings cranes weighing machines machinery and other works apparatus and conveniences :

41 & 42 Vict.
c. 76.

Provided that any electric wires mains cables or other apparatus constructed and maintained under the provisions of this section shall be so constructed used and maintained as to prevent any interference with any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line.

Power to purchase dredgers etc.

34. The Commissioners may provide purchase take on lease hire and use such steam or other tugs dredgers eroders engines lighters or other vessels machinery and apparatus as they may think necessary for effecting the purposes of this Act and may let the same on hire for such sums and upon and subject to such terms and conditions as they may think fit or may sell or dispose

of the same All sums received in respect of any such letting on hire shall be deemed to form part of the harbour revenue and all moneys realised by any such sale shall be applied towards carrying into effect any of the purposes of this Act to which capital is properly applicable.

PART III
—cont.

35. The Commissioners may by agreement acquire (whether by purchase lease or exchange) and hold any land which in their opinion it is desirable that they should acquire for or in connection with any of the purposes of their undertaking.

Power to
purchase
lands by
agreement.

36. The Commissioners may dispose of any land (or any estate or interest therein) for the time being vested in them which may not be required by them in such manner (whether by way of sale exchange lease the creation of any easement right or privilege or otherwise) for such period and upon such conditions and for such consideration as they may think fit:

Power to
dispose of
land.

Provided that the Commissioners shall not sell any land to which the provisions of sections 127 to 131 of the Lands Clauses Consolidation Act 1845 apply otherwise than in accordance with those provisions so far as applicable.

8 & 9 Vict.
c. 18.

37.—(1) The Commissioners may deepen dredge scour and excavate any portion of the foreshore and bed of the harbour and the approaches thereto on the seaward side to the extent necessary to secure sufficient waterway and approach to any part of the harbour for vessels using the same.

Power to
dredge.

(2) All sand mud stone and other materials dredged up or removed shall be the property of the Commissioners and they may sell or otherwise dispose of or remove or deposit the same as they think fit:

Provided that no materials raised 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 and regulations as may be fixed by the Minister and the Commissioners of Crown Lands respectively.

(3) All money arising from any sale or other disposition of sand mud stone or other materials under this section after paying the expenses connected therewith shall be applied in the same manner as harbour revenue is to be applied.

(4) (a) If in the exercise of the powers conferred upon them by this section the Commissioners damage Dartmouth Quay or any sewer outfall or other property of the corporation they shall compensate the corporation for the cost of making good such damage.

(b) If in the exercise of the powers conferred upon them by this section the Commissioners damage any county road or any

PART III
—cont.

retaining wall embankment or slipway which supports any such road the Commissioners shall compensate the county council for the cost of making good such damage.

(c) Any dispute as to the amount of compensation to be paid under this subsection shall be determined by an arbitrator to be mutually agreed upon between the Commissioners and the corporation or the county council (as the case may be) or failing agreement to be appointed on the application of either party by the President of the Institution of Civil Engineers.

(d) In this subsection the expression "county road" has the same meaning as in Part III of the Local Government Act 1929. c. 17.

(5) (a) In the exercise of the powers conferred by this section the Commissioners shall not interfere with damage or injuriously affect any submarine cable placed and maintained by the Postmaster-General in or across the harbour and the approaches thereto on the seaward side.

(b) Before exercising the said powers within a distance of fifty yards of any submarine cable placed and maintained by the Postmaster-General in or across the harbour and the approaches thereto the Commissioners shall give in writing to the Postmaster-General as long notice as possible and in any case not less than twenty-eight days' notice in respect of their intention to exercise such powers.

(c) Any sand mud shingle and other materials dredged up and removed shall not be laid down or deposited in such a place or manner as to cover any such submarine cable or impede any work of or connected with the inspection or repair of such cable.

Byelaws.

38.—(1) The Commissioners may from time to time make such byelaws as to them seem meet for all or any of the following purposes (namely):—

- (a) for the regulating or prohibiting the mooring or anchoring of vessels in the harbour ;
- (b) for regulating the placing laying down maintaining using and having existing and future moorings in the harbour and for prescribing the patterns of moorings in the harbour ;
- (c) for securing the good and orderly conduct of persons in charge of or using vessels in the harbour ;
- (d) for the regulation or prevention of the use of firearms in the harbour ;
- (e) for the prevention of nuisances and offences against decency in the harbour ;
- (f) for regulating and controlling in the harbour the navigation and speed of vessels mechanically propelled and preventing obstruction to vessels using the harbour.

(2) The byelaws which may from time to time be made by the Commissioners in exercise of the powers in that behalf conferred on them by section 83 of the Harbours Clauses Act and by subsection (1) of this section may provide for imposing a penalty not exceeding five pounds for the breach or non-observance of any of the byelaws.

(3) No byelaw made by the Commissioners after the coming into operation of this Act shall have effect unless and until it is confirmed by the Minister and the provisions of subsections (3) to (6) of section 250 and section 252 of the Local Government Act 1933 shall apply to all byelaws so made as if the Commissioners were a local authority and in the application of such last-mentioned provisions the Minister shall be the confirming authority. 23 & 24 Geo. 5.
c. 51.

39.—(1) The Commissioners may place lay down maintain use and have moorings in the harbour. Powers as to
moorings.

(2) (a) The Commissioners may from time to time on such terms and conditions as they shall think fit grant licences to any person to place lay down maintain use and have existing and future moorings in the harbour and may contribute to the cost of the same and the Commissioners may also grant licences to any person to exercise the privilege of preferential right of user of moorings laid down by the Commissioners in consideration of a contribution or periodical payment by such person to the Commissioners.

(b) Any licence granted under paragraph (a) of this subsection shall be valid only for a period of twelve months commencing with its date.

(c) The Commissioners may charge a fee not exceeding two pounds for the granting of a licence under paragraph (a) of this subsection.

(3) Nothing in this section shall be deemed to confer on the Commissioners any right title or interest in or to any land (not for the time being belonging to the Commissioners) forming part of the bed or foreshore of the harbour.

40.—(1) In this section “houseboat” means any boat or barge or any vessel or structure or any part remains or wreckage thereof whether or not the same shall be floating at any stage of the tide and whether or not the same shall be used or intended to be used for human habitation but does not include any ship registered under the Merchant Shipping Act 1894 or any boat or vessel bona fide used for navigation. As to
houseboats.
57 & 58 Vict.
c. 60.

(2) (a) It shall not be lawful without the written consent of the Commissioners to moor place keep or maintain in the

PART III
—cont.

harbour any houseboat whether or not the same shall have been so moored or placed before the passing of this Act:

Provided that nothing in this subsection shall prejudice or affect any obligation existing under any Act other than this Act to obtain the consent of the port health authority for the harbour or of any local authority within whose area the houseboat is or is proposed to be moored placed kept or maintained to such mooring placing keeping or maintaining.

(b) The Commissioners shall send notice in writing of any application for consent under this subsection to the corporation or the district council (whichever authority is concerned) and to the county council and before giving their consent shall consider any representations which may be made to them within the period mentioned in paragraph (c) of this subsection by the corporation the district council or the county council.

(c) The Commissioners shall not give their consent in respect of any application under this subsection until the expiration of one month from the date of their sending any notice required by paragraph (b) of this subsection and shall give notice in writing to the corporation or the district council as the case may be and to the county council of their decision.

(d) Any notice which is required by this subsection to be sent or given to the corporation the district council or the county council shall—

(i) in the case of the corporation be delivered to the town clerk of the borough of Dartmouth at his office or sent in a prepaid letter addressed to him at that office ;

(ii) in the case of the district council be delivered to the clerk of the council of the urban district of Brixham at his office or sent in a prepaid letter addressed to him at that office ; and

(iii) in the case of the county council be delivered to the clerk of the county council at his office or sent in a prepaid letter addressed to him at that office.

(3) (a) If any houseboat shall be moored placed kept or maintained contrary to the provisions of subsection (2) of this section the Commissioners may by notice in writing to be given in the manner hereinafter provided require the person having the control of the houseboat to remove or demolish it.

(b) Any such notice shall be given by leaving it or sending it in a prepaid letter addressed to the person having the control of such houseboat at his usual or last known residence or (if it is not practicable after reasonable inquiry to ascertain the name and address of such person) by posting the same in a conspicuous position on such houseboat or on the land or foreshore near to such houseboat and shall specify the period within which such

removal or demolition shall be completed. A copy of such notice shall be sent by the Commissioners to the corporation or the district council as the case may be and to the county council.

(4) (a) If any person fails without reasonable cause to comply with any notice given by the Commissioners under the provisions of subsection (3) of this section he shall be liable to a penalty not exceeding ten pounds and to a further penalty not exceeding five pounds for each day during which such default continues after conviction therefor and the Commissioners may at any time after the expiration of the period specified in such notice remove or demolish the houseboat referred to in the notice.

(b) Subject as is provided in subsection (6) of this section the costs and expenses reasonably incurred by the Commissioners in or in connection with any such removal or demolition may be recovered by the Commissioners as a simple contract debt in any court of competent jurisdiction from the person having the control of such houseboat unless a penalty shall have been recovered from that person under paragraph (a) of this subsection.

(5) For the purposes of subsections (3) and (4) of this section the owner of any houseboat shall until the contrary be proved be deemed to be the person having the control thereof.

(6) (a) Where any houseboat shall have been removed or demolished by the Commissioners as aforesaid the Commissioners may retain the same or the materials thereof and may and shall if so required by the owner sell or dispose of the same or of such materials and subject as hereinafter provided retain the proceeds of such sale or disposal.

(b) For the purpose of ascertaining the amount recoverable by the Commissioners under paragraph (b) of subsection (4) of this section in respect of the costs and expenses incurred by them in or in connection with the removal or demolition of any such houseboat credit shall be given for the net amount (if any) received by the Commissioners of the proceeds of the sale or disposal (after deduction of any costs and expenses incurred by the Commissioners in effecting the same) of such houseboat or the materials thereof. If such net amount shall exceed the amount of the costs and expenses incurred by the Commissioners in or in connection with such removal or demolition as aforesaid they shall pay the amount of such excess to the owner of such houseboat which shall have been removed or demolished.

(7) Nothing in this section shall be deemed to confer on the Commissioners any right title or interest in or to any land (not for the time being belonging to the Commissioners) forming part of the bed or foreshore of the harbour.

PART III
—cont.10 & 11 Geo. 6.
c. 51.Appeals under
last two
preceding
sections.

(8) This section shall not be taken to dispense with any permission consent or approval which may be required under the Town and Country Planning Act 1947 or any Act amending or extending the same.

41.—(1) Any person aggrieved by any terms or conditions prescribed by the Commissioners or by any refusal of a licence under section 39 (Powers as to moorings) of this Act or by any refusal of consent or any requirement of the Commissioners under section 40 (As to houseboats) of this Act may appeal to the Exeter County Court.

(2) Any appeal to the Exeter County Court under this section shall be determined by the judge of that court.

(3) The time within which any such appeal may be brought shall be twenty-one days from the date on which notice of the terms conditions refusal or requirement was given to the person desiring to appeal.

(4) (a) On the hearing of such appeal the judge may dismiss or allow the appeal or may vary the terms conditions or requirement appealed against by substituting therefor any terms conditions or requirement which the Commissioners could have prescribed or made under the said section 39 or the said section 40 as the case may be.

(b) The judge may upon the hearing of the appeal make any order for costs where in his discretion he shall think fit.

(c) So far as not inconsistent with this Act county court rules shall apply to the proceedings on the appeal and to the enforcement of any order made thereon.

(5) In any case in which such an appeal lies the document notifying the terms conditions refusal or requirement in the matter shall state the right of appeal to the county court and the time within which such an appeal may be brought.

(6) Where any refusal or requirement against which a right of appeal is conferred by this section involves the execution of any work or the taking of any action or makes it unlawful for any person to use any premises for any purpose for which they were lawfully used up to the time of such refusal or requirement—

(a) no proceedings in respect of any failure to execute the work or take the action shall be taken ;

(b) the Commissioners shall not execute any such work or take such action ; and

(c) any person may use such premises for such purpose ; until the time for appealing has expired or when an appeal is

lodged until the appeal has been disposed of or withdrawn or fails for non-prosecution thereof.

(7) Where upon an appeal under this section the court varies or reverses any refusal or requirement of the Commissioners effect shall be given to the order of the court and in particular any necessary licence or consent shall be granted.

42.—(1) (a) Section 40 (As to houseboats) of this Act shall come into operation on but not until such date as may be fixed by a resolution of the Commissioners of which date public notice shall be given by the Commissioners by advertisement in one or more local newspapers published or circulating in Dartmouth and Brixham. Commence-
ment of section
40 of this Act.

(b) Every such advertisement shall also state the effect of the said section 40 and the date specified therein as the date on which that section shall come into operation shall not be less than one month after the date of the publication of the advertisement:

Provided that an application for the consent of the Commissioners to moor place keep or maintain a houseboat in the harbour may be made and determined before the said section comes into operation.

(2) A copy of a newspaper containing such advertisement shall be sufficient evidence of the publication of the advertisement.

(3) It shall be lawful for any person who when the said section 40 came into operation—

(a) was maintaining a houseboat in the harbour; and

(b) has made application in accordance with the provisions of that section for the consent of the Commissioners required by that section;

to continue to maintain such houseboat in the harbour until such time as he is informed of the decision with regard to his application and if the decision is adverse during such further time as is provided under subsection (6) of the last preceding section of this Act.

43. The Commissioners may from time to time provide on any lands belonging to them or may take on lease or hire elsewhere such dwelling-houses and offices for any of their officers servants or workmen as they think fit and may permit the same to be occupied accordingly with or without the payment of any rent for the same and on such terms and conditions as the Commissioners think fit. Power to
provide
dwellings for
officers etc.

44. The Commissioners shall have the appointment of meters and weighers at their works. Meters and
weighers.

PART IV

FINANCIAL

Security for
existing
liabilities.

45. Notwithstanding any repeals effected by this Act any bond or mortgage which at the date of the passing of this Act is secured on any of the revenues of the Commissioners or of the interest thereon shall continue to be so secured and any holder of a bond or mortgagee or other person secured shall continue to have the same rights and remedies against the Commissioners and against any specific property charged in the same manner and to the same extent in all respects as he would have had if this Act had not been passed.

Power to
borrow.

46.—(1) Subject to the provisions of section 75 (Rates and rents at Dartmouth Quay) of this Act the Commissioners may from time to time borrow at interest not exceeding five pounds per centum per annum on the security of the revenues of the Commissioners a sum or sums not exceeding in the aggregate one hundred thousand pounds.

(2) All moneys borrowed under this section shall be applied in the manner and order following and not otherwise (that is to say):—

(i) in payment of the costs charges and expenses of and incident to the applying for obtaining and passing of this Act;

(ii) in carrying on the general purposes of the undertaking to which capital is properly applicable.

(3) Any money borrowed under this Act shall be repaid within such period not exceeding sixty years from the date of the borrowing as the Commissioners with the consent of the Minister may having regard to the circumstances of each case determine which periods shall be the prescribed periods for the purposes of this Act.

Reborrowing.

47. Any money borrowed under this Act and discharged otherwise than by means of a sinking fund or by instalments may be reborrowed if required for the purposes of the undertaking and so from time to time.

Mode of
payment off
of money
borrowed.

48. The Commissioners shall pay off all moneys borrowed by them under the powers of this Act either by equal yearly or half-yearly instalments of principal or of principal and interest combined or by means of a sinking fund or partly by one of those methods and partly by another or others of them and the payment of the first instalment or the first payment to the sinking fund shall be made within twelve months or when the money is repayable by half-yearly instalments within six months from the date of borrowing.

49. A person lending money to the Commissioners under the borrowing powers contained in this Act shall not be bound to inquire as to the observance by the Commissioners of any provisions of this Act or of any Act incorporated therewith or be bound to see to the application or be answerable for any loss misapplication or non-application of the money lent or of any part thereof.

Protection
of lender
from inquiry.

50. It shall not be lawful to exercise the powers of borrowing conferred upon the Commissioners by this Act (other than the power of borrowing to pay the costs charges and expenses referred to in section 96 (Costs of Act) of 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.

Saving for
powers of
Treasury.

9 & 10 Geo. 6.
c. 58.

51.—(1) The holders of any security given in respect of money borrowed by the Commissioners may enforce payment of arrears of interest or principal or principal and interest due to them by the appointment of a receiver.

Appointment
of a receiver.

(2) In order to authorise the appointment of a receiver in respect of arrears of interest or principal or principal and interest the amount owing to the holders of any security by whom the application for a receiver is made shall be not less than one thousand pounds.

(3) In sections 86 and 87 of the Commissioners Clauses Act 1847 as incorporated with this Act the expressions "mortgage" and "mortgagee" shall respectively include any security for money borrowed under this Act and the holder of any such security.

52. All moneys received by the Commissioners under the authority of the enactments repealed by this Act and of this Act and being in the nature of revenue shall be applied by them to the purposes and in the order following :—

Application
of revenue.

- (1) in payment of the working and establishment expenses and the cost of the maintenance renewal and repair of the Commissioners' undertaking ;
- (2) in payment year by year of the interest accruing on money borrowed by the Commissioners ;
- (3) in providing the requisite instalments appropriations or sinking fund payments in respect of moneys borrowed by the Commissioners ;
- (4) in defraying all the costs charges and expenses which the Commissioners may incur in the execution of this Act and in making completing doing and maintaining all such works matters and things as they may be authorised to make complete do and maintain so far as the same shall not be payable and paid out of capital ;

PART IV
—cont.

(5) in providing any reserve fund pursuant to section 53 (Reserve fund) of this Act.

Reserve fund.

53.—(1) The Commissioners may if they think fit provide a reserve fund by setting aside such money as they think reasonable and investing the same and the resulting income thereof in statutory securities until the fund so formed amounts to the sum of ten thousand pounds.

(2) The reserve fund provided under this section may be applied—

- (a) to answer any deficiency at any time happening in the income of the Commissioners ; or
- (b) to meet any extraordinary claim or demand at any time arising against the Commissioners ; or
- (c) in payment of the cost of renewing improving or extending any works ;

and so that if the fund be at any time reduced it may thereafter be again restored to the said sum and so from time to time as often as such reduction happens Provided that resort may be had to the reserve fund though the fund may not at the time have reached or may have been reduced below the sum of ten thousand pounds.

Sinking fund.

54.—(1) If the Commissioners determine to repay by means of a sinking fund any moneys borrowed under this Act the sinking fund shall be formed and maintained either—

- (a) by payment to the fund throughout the prescribed period of such equal annual sums as will be sufficient to pay off within that period the moneys for the repayment of which the sinking fund is formed (a sinking fund so formed being hereinafter called a “non-accumulating sinking fund”); or
- (b) by payment to the fund throughout the prescribed period of such equal annual sums as with accumulations at a rate not exceeding such rate as the Minister may approve will be sufficient to pay off within that period the moneys for the repayment of which the sinking fund is formed (a sinking fund so formed being hereinafter called an “accumulating sinking fund”).

(2) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the interest on the investments of the sinking fund shall unless applied in repayment of the moneys for the repayment of which the sinking fund is formed be immediately invested in statutory securities but the Commissioners may from time to time vary and transpose the investments.

(3) In the case of a non-accumulating sinking fund the interest on the investments of the fund may be applied by the Commissioners towards the equal annual payments to the fund.

(4) The Commissioners may at any time apply the whole or any part of a sinking fund in or towards the discharge of the moneys for the repayment of which the sinking fund was formed:

Provided that in the case of an accumulating sinking fund the Commissioners shall pay into the fund each year and accumulate during the residue of the prescribed period a sum equal to the interest which would have been produced by such sinking fund or part thereof so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based.

(5) If at any time the income of an accumulating sinking fund is not equal to the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the equal annual payments to the fund are based any deficiency shall be made good by the Commissioners.

(6) If at any time the income of an accumulating sinking fund is in excess of the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the equal annual payments to the fund are based any such excess may be applied towards such annual payments.

(7) Any surplus of a sinking fund remaining after the discharge of the whole of the moneys for the repayment of which it was formed shall be applied to such capital purposes as the Commissioners with the consent of the Minister may determine.

(8) Any expenses connected with the formation maintenance investment application or management of or otherwise in relation to any sinking fund under this Act shall be paid by the Commissioners in addition to the payments provided for by this Act.

55.—(1) If at any time it appears to the Commissioners that the amount in a sinking fund together with the sums which will be payable thereto in accordance with the provisions of this Act and in the case of an accumulating sinking fund with the accumulations thereon will not be sufficient to repay within the fixed period the moneys for the repayment of which the sinking fund is formed the Commissioners shall either temporarily or permanently make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose and if it appears to the Minister that any such increase is necessary the Commissioners shall increase the payments to such extent as the Minister may direct. Adjustments to sinking fund.

PART IV
—cont.

(2) If the Commissioners desire to accelerate the repayment of any moneys borrowed they may with the approval of the Minister increase the amounts payable to the sinking fund.

(3) If the amount in a sinking fund together with the sums which will be payable thereto in accordance with the provisions of this Act and also in the case of an accumulating sinking fund together with the accumulations thereon will in the opinion of the Minister be more than sufficient to repay within the fixed period the moneys for the repayment of which the sinking fund is formed the Commissioners may reduce the payment to the sinking fund either temporarily or permanently to such amounts as will in the opinion of the Minister be sufficient to repay within the fixed period the moneys for the repayment of which the sinking fund is formed.

(4) If at any time the amount in a sinking fund together with the accumulations thereon in the case of an accumulating sinking fund will in the opinion of the Minister be sufficient to repay the moneys for the repayment of which the sinking fund is formed within the fixed period the Minister may authorise the Commissioners to suspend the annual payments to the sinking fund until the Minister otherwise directs.

Annual
statement need
not be printed.

56. It shall not be obligatory on the Commissioners under section 90 of the Commissioners Clauses Act 1847 as incorporated with this Act to cause the statement and accounts therein mentioned to be printed and notwithstanding anything in that Act the same person may be both the clerk and treasurer to the Commissioners.

Annual
account to
be sent to
Minister.

57. The Commissioners shall in the month of June in every year furnish to the Minister a statement showing the income expenditure credits and liabilities of the Commissioners in and for the year ending on the preceding thirty-first day of March and the total amount of capital expended by the Commissioners up to the expiration of that year and shall in the same month in every year forward and furnish to the town clerk of the borough of Dartmouth a copy of the aforesaid account.

Return to
Minister.

58.—(1) The clerk to the Commissioners shall if and when he is requested by the Minister so to do send to the Minister a return showing the provision made by the Commissioners for the repayment of moneys borrowed by them under the authority of this Act.

(2) The return shall—

- (a) show such particulars be made up to such date and be in such form as the Minister may require ;
- (b) be certified by the treasurer or other person whose duty it is to keep the accounts of the Commissioners and

if so required by the Minister be verified by statutory declaration made by that person ;

(c) be sent within one month after the making of the request therefor.

(3) If it appears to the Minister from any return made under this section or otherwise that the Commissioners—

(a) have failed to pay any instalment or annual payment required to be paid ; or

(b) have failed to appropriate to the discharge of any loan any sum required to be so appropriated ; or

(c) have failed to set apart any sum required for a sinking fund ; or

(d) have applied any portion of a sinking fund to a purpose other than those authorised ;

the Minister may by order direct that such sum as is specified in the order not exceeding the amount in respect of which default has been made shall be paid or applied in the manner and by the date set out in the order and the Commissioners shall notify the Minister as soon as the order has been complied with.

(4) An order made under the last preceding subsection may be enforced at the instance of the Minister by mandamus.

(5) If a return required to be made under this section is not made within the time specified in subsection (2) of this section the person in default shall be liable to a penalty not exceeding twenty pounds and notwithstanding the recovery of any such penalty the making of the return may be enforced at the instance of the Minister by mandamus.

59.—(1) The Minister may appoint a person to be auditor to Auditor. examine and audit the accounts of the Commissioners and may fix the payments to be made to him for salary and for expenses (if any) and the amount of the salary and expenses (if any) shall be paid by the Commissioners out of the revenues of the Commissioners.

(2) The Minister may at any time revoke the appointment of any person as auditor and thereupon shall unless he sees special reason to the contrary appoint another person as auditor.

(3) No person shall be qualified for appointment as auditor of the accounts of the Commissioners unless he is a member of one or more of the following bodies :—

The Institute of Chartered Accountants in England and Wales ;

The Society of Incorporated Accountants and Auditors ;

PART IV
—cont.

The Society of Accountants in Edinburgh ;
 The Institute of Accountants and Actuaries in Glasgow ;
 The Society of Accountants in Aberdeen ;
 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 by the Board of Trade for the purposes of the provisions of section 161 of the Companies Act 1948 relating to the qualification for appointment as auditor of a company other than an exempt private company.

11 & 12 Geo. 6.
c. 38.

(4) The Commissioners shall on demand by the auditor produce to him all books accounts deeds papers writings and other documents and furnish him with all information in their possession or power and afford him all reasonable facilities for conducting the examination and audit.

(5) If the Commissioners refuse or neglect to comply with any of the provisions of this section they shall be liable to a penalty not exceeding twenty pounds for every month during which they neglect or refuse so to comply.

Proceeds of
sale of lands
to be treated
as capital.

60. Capital money received by the Commissioners in respect of a transaction under section 36 (Power to dispose of land) of this Act shall be applied in such manner as the Minister may approve towards the discharge of any debt incurred under this Act or otherwise for any purpose for which capital money may properly be applied.

Subscriptions
to associations
and other
expenses.

61. The Commissioners may—

- (i) subscribe or make reasonable donations to the funds of any association of harbour dock or port authorities or of their officers and formed for the purpose of consultation as to their common interests and the discussion of matters relating to the administration of harbours docks and ports ; and
- (ii) pay any reasonable expenses of the attendance of any members or officers of the Commissioners at conferences or meetings of such associations or any of them and the cost of purchasing reports and contributions towards the proceedings of any such conferences or meetings.

Power to make
superannuation
and other
allowances.

62.—(1) The Commissioners may grant such pensions gratuities or allowances or make such other payments as they may think fit to any person who is for the time being or has been an employee of the Commissioners or where in their opinion

adequate provision is not otherwise made to the widow children or dependants of any such person.

PART IV
—cont.

(2) The Commissioners may enter into and carry into effect agreements with any insurance company or other association or company for securing to all or any of such persons or the widow children or dependants of any such persons such pensions gratuities allowances or payments as are by this section authorised to be granted or made.

PART V

RATES AND CHARGES

63.—(1) The Commissioners may demand and take in respect of all goods shipped unshipped or transhipped within the harbour rates not exceeding those specified in Part I of the Second Schedule to this Act subject to the conditions specified in that Part of the schedule. Rates and rents on goods.

(2) If any goods remain on or in any quay shed or other work of the Commissioners for more than twenty-four hours after the time when the goods are placed thereon or therein the Commissioners may demand and take in respect of such goods quay or shed rent not exceeding the amount specified in Part II of the Second Schedule to this Act subject to the conditions specified in that Part of the schedule.

64. The Commissioners may demand and take in respect of all passengers landing from or embarking in any vessel within the harbour rates not exceeding those specified in Part III of the Second Schedule to this Act subject to the exemption specified in that Part of the schedule. Rates on passengers and luggage.

65. The Commissioners may demand and take in respect of every vessel other than a seaplane entering using or leaving the harbour rates not exceeding those specified in Parts IV and V of the Second Schedule to this Act subject to the conditions specified in Part IV of the schedule. Harbour rates on vessels.

66.—(1) The Commissioners may demand and take in respect of every vessel other than a seaplane lying alongside any quay within the harbour rates not exceeding those specified in Part VI of the Second Schedule to this Act subject to the condition specified in that Part of the schedule. Quay rates on vessels.

(2) In this section and Part VI of the Second Schedule the expression “quay” shall mean any quay pier jetty or pontoon belonging to or occupied by the Commissioners or the corporation.

67. The Commissioners may demand and take for the use by vessels other than seaplanes of any buoy pillar post or mooring belonging to the Commissioners rates not exceeding those specified in Part VII of the Second Schedule to this Act. Mooring rates.

PART V
—cont.Liability for
payment
of rates.

68.—(1) The rates and rents authorised by section 63 (Rates and rents on goods) of this Act shall be payable by the owner of the goods in respect of which the rate is demanded.

(2) The rates authorised by section 64 (Rates on passengers and luggage) section 65 (Harbour rates on vessels) section 66 (Quay rates on vessels) and section 67 (Mooring rates) of this Act shall be payable by the master of the vessel in respect of which the rate is demanded.

Rates for
services and
accommoda-
tion not
otherwise
provided for.

69.—(1) The Commissioners may (so far as the rates rents and charges specified in Parts I to VII of the Second Schedule to this Act do not extend) demand and take such reasonable rates as they may from time to time determine for the use of any sheds buildings yards weighing machines cranes works and conveniences belonging to or provided by the Commissioners or in respect of any services rendered by them in connection with the harbour.

(2) The rates authorised by subsection (1) of this section shall be payable by the owner of the goods or other articles dealt with or by the master of any vessel using or applying for the use of such plant appliances conveniences or services or from any other person who may so apply.

Rates on
seaplanes.
12 13 & 14
Geo. 6. c. 67.

70.—(1) Subject to the provisions of the Civil Aviation Act 1949 the Commissioners may demand and take on and in respect of seaplanes entering or using or leaving the harbour such reasonable rates as may from time to time be approved by the Minister.

(2) The rates authorised by this section shall be payable by the owner or other person in charge of the seaplane in respect of which the rate is demanded as the Commissioners may determine.

Power to vary
exemptions
and compound
for rates.

71. The Commissioners may confer vary or extinguish exemptions from and compound with any person with respect to the payment of the rates rents and charges which the Commissioners are from time to time authorised to demand and take but so that no preference be in any case given to any person over any other person under the like circumstances and that anything done under this section shall not prejudice the other provisions of the Act.

Revision
of rates.

72.—(1) If it is represented by application in writing to the Minister—

- (a) by any chamber of commerce or shipping or any representative body of traders or shipowners ; or
- (b) by any person who in the opinion of the Minister has a substantial interest in the trade of the harbour and is a proper person to make an application ; or
- (c) by the Commissioners ;

that under the circumstances then existing the authorised rates should be revised in whole or in part the Minister if he thinks fit may make an order revising all or any of the authorised rates referred to in the application and may fix the date as from which such order shall take effect and thenceforth such order shall remain in force until the same expires or is revoked or modified by a further order of the Minister made in pursuance of this subsection.

(2) An application made to the Minister under subsection (1) of this section shall be accompanied by such information and particulars as the Minister may consider relevant certified in such manner as he may require.

(3) Where upon an application under subsection (1) of this section an order has been made or the Minister has decided not to make an order no further application for a revision of any of the rates to which the application related shall be made within twelve months from the date of such order or decision as the case may be.

(4) Before making an order under subsection (1) of this section the Minister shall consult with such bodies or persons as aforesaid as appear to him to be appropriate including the Commissioners where they are not the applicants and for the purpose of ascertaining such bodies or persons may require public notice of the application to be given and where an objection to an application is made by the Commissioners or by any such body or person as aforesaid and is not withdrawn the Minister unless it appears to him that the objection is of a trivial nature shall cause an inquiry to be held in reference to the application.

(5) Subject to the proviso to this subsection the Minister shall not by an order under subsection (1) of this section make any such revision of the authorised rates as in his opinion would so far as can be estimated be likely to result in the annual revenue of the Commissioners being insufficient or more than sufficient to enable the Commissioners with efficient management of their undertaking to make adequate provision for paying all proper expenses of and connected with the working management and maintenance of the undertaking including interest on loan capital (regard being had by him to any capital which the Commissioners may reasonably be expected to expend) making good depreciation providing for any contributions which the Commissioners may reasonably and properly carry to any reserve fund contingency fund or sinking fund and meeting all other costs charges and expenses if any properly chargeable to revenue:

Provided that in any case where the Minister is satisfied that there are special circumstances affecting the undertaking taking into account its financial condition during such period preceding the date on which an application is made under subsection (1)

PART V
—cont.

of this section as the Minister considers to be appropriate the Minister may revise the authorised rates in such manner as he thinks just and reasonable with due allowance for such special circumstances notwithstanding that such revision is likely to result in the revenue of the Commissioners being insufficient to enable the Commissioners to make adequate provision for all of the matters referred to in the foregoing provisions of this subsection.

(6) The power of the Minister to make an order under subsection (1) of this section shall be exercisable by statutory instrument.

Authorising
deposit on
account
of rates.

73. The collector of rates may receive by way of deposit and on account of the rates or dues to which any vessel or cargo may be liable such a sum of money as shall in his opinion be sufficient to cover the amount thereof.

Recovery
of rates.

74. In addition to the remedy given by section 44 of the Harbours Clauses Act 1847 and whether the demand made by that section has been made or not the Commissioners may recover any rates rents and charges which by this Act they are authorised to demand and take or any arrears of rates rents and charges payable to them under any enactment repealed by this Act as a debt in any court of competent jurisdiction:

Rates and rents
at Dartmouth
Quay.

75.—(1) Where rates and rents are levied and recovered by the Commissioners—

(a) under section 66 (Quay rates on vessels) of this Act in respect of vessels which lie alongside Dartmouth Quay ;
or

(b) under this Part of this Act in respect of—

(i) passengers and their luggage who in landing from or embarking in any vessel make use of Dartmouth Quay ; or

(ii) goods which are shipped from or unshipped at Dartmouth Quay ;

the Commissioners shall account for and pay to the corporation seventy-five per centum of the net amount of all such rates and rents.

(2) No mortgagee of the Commissioners shall have any claim upon that part of the rates and rents which by subsection (1) of this section are payable by the Commissioners to the corporation.

PART VI

MISCELLANEOUS

Removal
of sunk
stranded or
abandoned
vessels.

76.—(1) Whenever any vessel is sunk stranded or abandoned in any part of the harbour or in or near any approach thereto the Commissioners may if they think fit cause the vessel or any part thereof to be raised removed blown up or destroyed.

(2) The Commissioners may recover from the owner of any such vessel all expenses incurred by the Commissioners in respect of the raising removal blowing up or destruction thereof or any part thereof or in raising removing saving or storing any furniture tackle and apparel thereof or any cargo goods chattels and effects raised removed or saved therefrom or in marking lighting watching buoying or otherwise controlling such vessel 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:

Provided always that the Commissioners may if they think fit and shall if so required by the owner of the vessel cause such vessel and any furniture tackle apparel cargo goods chattels and effects or any part of the same respectively so raised removed saved or stored as aforesaid to be sold in such manner as they think fit and out of the proceeds of the sale may after paying any duties of customs or excise and purchase tax which may be payable in respect of the said cargo goods chattels and effects reimburse themselves for any such expenses duties and tax and shall hold the surplus if any of those proceeds in trust for the persons entitled thereto and in case such proceeds shall be insufficient to reimburse the Commissioners such expenses duties and tax the deficiency may be recovered by the Commissioners in manner aforesaid.

(3) The Commissioners shall (except in any case which in their opinion is a case of emergency) before raising removing blowing up or destroying any vessel under the provisions of this section give to the owner of the vessel twenty-four hours' notice of their intention so to do and if within twelve hours after the expiration of such notice the owner gives to the Commissioners notice in writing of his intention himself to raise and remove the vessel he shall be at liberty to do so in lieu of the Commissioners:

Provided that if the owner gives any such notice as last aforesaid—

- (a) he shall in raising or removing the vessel comply with any directions which may from time to time be given to him by or on behalf of the Commissioners for the purpose of preventing interference with navigation; and
- (b) he shall forthwith after giving such notice commence and shall with all diligent dispatch proceed with and complete the raising or removal of the vessel;

and if such raising or removal be not completed within seven days after the giving of such notice by the owner such notice shall be null and void and the Commissioners shall be at liberty

PART VI
—cont.

to cause the vessel to be raised or removed or blown up or otherwise destroyed in accordance with the provisions of this section as if the owner had not given such notice.

(4) The Commissioners shall (except in any case which in their opinion is a case of emergency or when required by the owner to sell) before selling any vessel under the provisions of this section give to the owner seven days' notice of their intention so to do.

(5) Any notice given by the Commissioners pursuant to subsection (3) or subsection (4) of this section shall be given by delivering the same to the owner or by posting a prepaid letter addressed to the owner at the place in the United Kingdom where he carries on business or at his last known place of abode in the United Kingdom or if the owner or his place of business or abode is not known to the Commissioners then by exhibiting such notice at the principal office of the Commissioners for twenty-four hours in the case of a notice given under the said subsection (3) or for seven days in the case of a notice given under the said subsection (4).

(6) In this section the expression—

“owner” in relation to any vessel sunk stranded or abandoned as aforesaid means the owner of that vessel at the time the said expenses were incurred by the Commissioners or if there was then no owner of the vessel the owner of the vessel at the time of the sinking stranding or abandonment thereof;

“vessel” includes a seaplane and other aircraft.

(7) The powers conferred on the Commissioners by this section 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.

(8) Except for the purpose of removing any obstruction to the harbour nothing in this section shall entitle the Commissioners to remove any wreck (as defined in section 510 of the Merchant Shipping Act 1894) to the prejudice or in derogation of the rights with respect to such wreck of the receiver of wreck under the provisions of Part IX of the said Merchant Shipping Act and if the Commissioners shall for any such purpose as aforesaid remove any such wreck they shall (without prejudice to the rights of sale conferred upon them by the foregoing provisions of this section) hold and dispose of the same or any such surplus of the proceeds of sale thereof as is referred to in subsection (2) of this section in accordance with such directions (if any) as may be given to them by the said receiver.

(9) For the removal of doubt it is expressly provided that nothing in this section shall apply to any vessel belonging to

His Majesty or held by any person on behalf of or for the benefit of the Crown nor shall any of the powers conferred by this section be exercised if by such exercise the Crown would become liable directly or indirectly otherwise than as an insurer or reinsurer under a contract of insurance or reinsurance for any expenses incurred by the Commissioners except where such consent is given as is provided for in section 77 (As to vessels in which the Crown have an interest) of this Act and the vessel was not such a vessel as aforesaid at any such time as is mentioned in subsection (6) of this section.

77.—(1) The Commissioners shall before taking possession of raising removing blowing up or destroying any vessel sunk stranded or abandoned under the powers conferred upon them by this Act or by any other enactment give to the Admiralty and to the Minister notice in writing of their intention so to do and if within fourteen days after the receipt of such notice the Admiralty or the Minister gives to the Commissioners—

As to vessels in which the Crown have an interest.

- (a) a certificate that the vessel was sunk stranded or abandoned by a person acting on behalf of His Majesty or otherwise by an officer or servant of the Crown acting in the course of his duty as such and that it is not in the national interest that the Commissioners should take possession of the vessel or that the vessel should be raised removed or blown up or destroyed ; or
- (b) a notice that the exercise by the Commissioners of the rights of recovery conferred by subsection (2) of section 76 (Removal of sunk stranded or abandoned vessels) of this Act would render the Crown liable directly or indirectly otherwise than as an insurer or reinsurer under a contract of insurance or reinsurance for all or a substantial proportion of the expense incurred by the Commissioners ;

the Commissioners shall not without the consent in writing of the authority by whom the certificate was issued or the notice given take possession of raise remove blow up or destroy such vessel Provided that in any case which in their opinion is a case of emergency the Commissioners may take possession of raise remove blow up or destroy any vessel without giving notice of their intention so to do to the Admiralty or to the Minister and in that event the Commissioners shall not be entitled to recover from any person the expenses incurred by them in so doing if the effect of such recovery would be to render the Crown so liable.

(2) If the Commissioners shall mark light watch buoy control or give warning to shipping of the presence of any vessel in respect of which the Admiralty or the Minister have refused their

PART VI
—cont.

consent under subsection (1) of this section the Commissioners shall not be entitled to recover the expenses of so doing from the owner of the vessel.

Inquiries by
Minister.

78. The Minister may hold such inquiries as he may consider necessary in regard to the exercise of any powers or duties conferred upon him or the giving of any consent or approval under this Act and subsections (2) to (5) of section 290 (Powers of government departments to direct inquiries) 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 Commissioners were a local authority.

Several sums
in one
summons.

79. Where the payment of more than one sum by any person is due under the provisions of any enactment from time to time relating to the Commissioners any summons or warrant issued for the purposes of any one or more of such enactments in respect of that person may contain in the body thereof or in a schedule thereto all the sums payable by him.

Recovery of
penalties etc.

80.—(1) Save as otherwise expressly provided by any enactment from time to time relating to the Commissioners all offences against any such enactment and all penalties or forfeitures imposed or recoverable thereunder or under any byelaw made thereunder or by virtue thereof may be prosecuted and recovered in a summary manner.

(2) Any costs or expenses recoverable as aforesaid may be recovered summarily as civil debts where the amount recoverable does not exceed twenty pounds.

Limits of
harbour
master's
jurisdiction.

81. The jurisdiction of the harbour master for the purposes of this Act and the Harbours Clauses Act 1847 shall be the harbour and the sea within a distance of four hundred yards from the seaward limits of the harbour.

Directions of
harbour
master.

82. Section 52 of the Harbours Clauses Act 1847 in its application to the Commissioners and the harbour master shall extend to empower the harbour master to give directions prohibiting the mooring of vessels in any particular part or parts of the harbour.

Orders of
harbour
master need
not be in
writing.

83. Section 53 of the Harbours Clauses Act 1847 in its application to the Commissioners and the harbour master shall not be construed to require the harbour master to serve a notice in writing of his directions upon the master of a vessel but such directions may be given verbally or otherwise communicated to such master but a notice that is not in writing shall not be deemed to be sufficient unless in the opinion of the court before whom any case may be heard it was not reasonably practicable to serve a written notice on the master of the vessel.

PART VI

—cont.

84. All pilots acting within the limits of this Act shall as regards the berthing and mooring of vessels be subject to and shall obey the directions of the Commissioners or their harbour master.

Pilots to obey Commissioners' directions.

85. The Commissioners shall at the outer extremity of their harbour and works exhibit from sunset to sunrise such light (if any) as shall from time to time be directed by the Corporation of Trinity House Déptford Strond.

Light to be exhibited if required.

86. Officers of the Ministry of Transport officers of customs and excise British sea-fishery officers and police officers acting in the execution of their duty shall at all times have free ingress passage and egress to along and from the harbour without payment.

Officers exempt from rates.

87. No person shall whilst within the harbour sound or use the whistle or syren of any vessel except for such purposes as are defined by the regulations for preventing collisions at sea for the time being in force or so far if at all as the Commissioners from time to time may authorise the use thereof as a means of communication with local agents pilots or crew Any person offending against this section shall be liable to a penalty not exceeding five pounds.

User of steam whistles.

88.—(1) Where any work constructed by the Commissioners and situate wholly or partially on under or over the shore or bed of the sea or of any creek bay arm of the sea or navigable river communicating therewith below high-water mark of ordinary spring tides is abandoned by the Commissioners or suffered by them to fall into decay the Minister may by notice in writing either require the Commissioners 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.

Abatement of work abandoned or decayed.

(2) Where any part of any such work which has been so 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 Commissioners 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 Commissioners and the amount of such expense shall be a debt due from the Commissioners to the Crown and shall be recoverable either as a debt due to the Crown or summarily as a civil debt.

PART VI
—cont.

(4) The powers of the Minister under this section shall be exercisable in respect of any work authorised by the Dartmouth Harbour Improvement Act 1882 and constructed or acquired by the corporation under the powers conferred by section 19 (As to transfer of works to corporation) of the Dartmouth Harbour Improvement Act 1882 and the provisions of this section shall apply to such work with the substitution for any reference therein to the Commissioners of a reference to the corporation.

Survey of
works by
Minister.

89. If at any time the Minister deems it expedient for the purposes of this Act to order a survey and examination of any work constructed by the Commissioners which shall be on under or over tidal waters or tidal lands below high water mark of ordinary spring tides or of the site upon which it is proposed to construct any such work under the powers of this Act the Commissioners shall defray the expense of the survey and examination and the amount thereof shall be a debt due from the Commissioners to the Crown and shall be recoverable either as a debt due to the Crown or by the Minister summarily as a civil debt.

Saving for
certain
frontagers to
river Dart.

90.—(1) Notwithstanding any repeal effected by this Act the owner or occupier for the time being of any lands or property which fronts upon the river Dart the access from which to the said river was cut off diminished or interfered with by reason of the construction of Dartmouth Quay shall subject as hereinafter provided at all times be entitled to have and enjoy in respect of so much of the said quay as shall lie directly between the frontal or abuttal of the lands or property of such owner or occupier and the riverward boundary of the said quay the same rights if any of mooring boats to and landing goods and passengers at and passing across the said quay as those enjoyed by the owner or occupier of the said lands or property immediately before the commencement of this Act and free from all tolls or charges.

(2) The owner of any lands or property referred to in subsection (1) of this section with which is enjoyed any of the rights over Dartmouth Quay which are mentioned in that subsection may by agreement with the corporation transfer to them all such rights over the said quay and thereupon such rights shall cease to attach to the lands or property and subject as hereinafter provided the enjoyment thereof by the owner or occupier for the time being of the land or property in respect of which such agreement has been made shall cease and determine.

(3) Where an agreement is made under subsection (2) of this section by an owner who is not in occupation of the lands or property in respect of which the agreement is made such agreement shall not affect or in any way diminish any such rights as are enjoyed by the occupier of the lands or property at the time the agreement is made whilst such occupier continues in

occupation Provided that any such occupier may by agreement with the corporation transfer to them all such rights over the said quay which he enjoys as such occupier.

PART VI
—cont.

91. Nothing in this Act shall authorise the Commissioners to take use enter upon or interfere with any land soil or water or any rights in respect thereof belonging to His Majesty in right of the Duchy of Cornwall except with the consent in writing of at least two of such of the regular officers of the said duchy or of such other persons as are 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 belonging to the Duke of Cornwall for the time being without the consent of such duke testified in writing under the seal of the Duchy of Cornwall first had and obtained for that purpose or to take away diminish alter prejudice or affect any property rights profits privileges powers or authorities vested in or enjoyed by His Majesty in right of the Duchy of Cornwall or in or by the Duke of Cornwall for the time being.

Saving rights of Duchy of Cornwall.

26 & 27 Vict.
c. 49.

92. 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.

Saving for town and country planning.

93. Nothing in this Act shall prejudice alter or affect the rights of the transport commission (as successors of the Great Western Railway Company) under an agreement made the fourth day of October eighteen hundred and eighty-eight between the Commissioners as then constituted of the first part the corporation of the second part and the Great Western Railway Company of the third part.

Saving for transport commission.

94. Nothing in this Act contained shall prejudice or affect the rights or jurisdiction of the Corporation of Trinity House Deptford Strond in respect of pilotage or of any lights buoys or beacons or any other matter of which they have the management or control.

Reservation of jurisdiction of Trinity House.

95. The following enactments are hereby repealed:—

Repeals.

The Dartmouth Harbour Order 1863.

The Dartmouth Harbour Order 1870.

The Dartmouth Harbour Improvement Act 1882.

The Dartmouth Harbour Order 1894.

The Dartmouth Harbour Act 1922.

96. All costs charges and expenses of and incident to the preparing and obtaining of this Act and otherwise incurred in reference thereto shall be paid by the Commissioners.

Costs of Act.

SCHEDULES
THE FIRST SCHEDULE

FORM A

DARTMOUTH HARBOUR

NOMINATION OF EMBANKMENT MEMBER

We AB [here insert name and designation] and BC [here insert name and designation] hereby nominate [here insert name and designation of candidate] for election as embankment member.

Given under our hands this _____ day of _____ 19____
Elector
Elector

And I the said _____ hereby sanction and approve of the said nomination.

Candidate.

To the clerk to the Commissioners for the harbour of Dartmouth.

DIRECTIONS FOR SIGNING

This nomination shall be signed by two electors of the embankment member and the candidate and delivered to the returning officer fourteen days at least prior to the _____ day of _____ 19____ being the day of election.

Each candidate must be nominated by a separate nomination paper.

The nomination paper shall be signed in case of a partnership by one of the partners in the partnership name and in the case of a body corporate by the secretary or clerk of the body.

FORM B

DARTMOUTH HARBOUR

Election of embankment member on the _____ day
of _____ 19____

VOTING PAPER

Number of voting paper	Name and address of voter	Number of votes

1ST SCH.
—cont.

DIRECTIONS FOR SIGNING

The nomination shall be signed by two electors of the harbour members and the candidate and delivered to the returning officer fourteen days at least prior to the _____ day of _____ 19____ being the day of election.

Each candidate must be nominated by a separate nomination paper.

The nomination paper shall be signed in case of a partnership by one of the partners in the partnership name and in the case of a body corporate by the secretary or clerk of the body.

FORM D

DARTMOUTH HARBOUR

Election of two harbour members on the _____ day
of _____ 19____

VOTING PAPER

Number of voting paper	Name and address of voter	Number of votes

Names and addresses of candidates	Column for voter's cross

I or we (as the case may be) vote for the persons in the list against whose name I (or we) have placed a cross.

Signature of witness.....

Address of witness.....

.....

DIRECTIONS FOR VOTING

The voter shall place a X against the name of the two candidates for whom he votes in the column for that purpose and shall sign the voting paper in the presence of a witness who must affix his signature and address in verification of the signature of the voter.

The voter can only vote once at each election of the harbour members.

The cross placed against the name of the two candidates voted for will entitle each of them to the number of votes specified in the above voting paper.

The voting paper must be delivered by post or otherwise to the returning officer in a sealed envelope addressed to him so that the same shall be received by him at the harbour office Dartmouth not later than the day before the day of election and must be entire.

In case of a partnership the voting paper is to be signed by one of the partners in the partnership name and in the case of a body corporate the voting paper shall be signed by the secretary or clerk of the body.

THE SECOND SCHEDULE

PART I

RATES IN RESPECT OF GOODS SHIPPED UNSHIPED OR
TRANSHIPPED WITHIN THE HARBOUR

						s.	d.
Animals live—							
Bulls cows and oxen	...	...	...	each		0	7
Calves lambs sheep	...	...	...	each		0	2
Horses	...	...	...	each		1	2
Bricks	...	...	...	per 1,000		2	0
Cement	...	...	...	per ton		0	6
"	...	...	...	per bag		0	2
Coal (including coke culm cinder slack)	...	...	...	per ton		1	0
Fish	...	...	...	per cwt.		0	2
Furniture any type	...	...	...	per ton		2	0
Fruit whatever nature	...	...	...	per ton		0	6
Gravel or sand	...	...	...	per ton		0	3
Iron (manufactured or in bars or rods)	...	...	...	per ton		1	6
Lime in bags	...	...	...	per ton		0	3
Onions	...	...	...	per cwt.		0	2
Ore	...	...	...	per ton		0	6
Paints oils	...	...	...	per ton		1	0
Pipes earthenware	...	...	...	per ton		1	0
Potatoes	...	...	...	per ton		0	6
Provisions	...	...	...	per ton		1	6
Raw material bales of	...	...	...	per ton		0	6
Sacking bales of	...	...	...	per ton		0	6
Slate (roofing or for similar material)	...	...	...	per ton		1	0
Stone (including granite) in slabs or blocks	...	...	...	per ton		0	3
Tiles (not of slate)	...	...	...	per ton		1	0
Timber sawn or logs	...	...	...	per ton		1	0

CONDITIONS

1. For all goods not specified in this Part of this schedule sums may be charged equal to the rates payable in respect of goods specified therein which in the judgment of the Commissioners are as nearly as may be of like nature package and quantity.

2. In charging the rates on goods the gross weight or measurement of all goods shall be taken. Fractional parts of any weight measure number or value shall be charged proportionately and the minimum charge for a single package shall be twopence.

2ND SCH.
—cont.

3. A manifest of the contents and quantities of each vessel shall be delivered by the owner master or other duly authorised person to the office of the Commissioners—

(a) in the case of a vessel loading before the departure of the vessel; and

(b) in the case of a vessel discharging as soon as practicable after the arrival of the vessel.

4. Rates shall be paid on goods imported immediately after the goods are unshipped or transhipped and before they are removed from the harbour and on goods exported before they are shipped.

PART II

QUAY AND SHED RENTS

QUAY AND SHED RENTS PAYABLE IN RESPECT OF GOODS NOT REMOVED WITHIN TWENTY-FOUR HOURS

For each ton of goods of eight barrels bulk or for each ton of goods of 20 cwt. the sum of 3d. and the sum of 1½d. per ton per day or any part of a day during which such goods shall remain after the first twenty-four hours.

But nevertheless goods shall be removed with all speed and shall in any case be removed within twenty-four hours after notice has been given to that effect by the Commissioners or harbour master or other duly authorised officer to the owners or consignees thereof.

Failing the goods being so removed after notice to do so a rate of 3d. per ton per day or any part of a day shall be charged after the expiration of the period mentioned in the notice to remove and the Commissioners or their officers shall be entitled to remove the goods and to detain them until payment is made of the expenses of and in connection with such removal and detention and of any rent or other sum due thereon and to sell the goods if such expenses and rent or other sum are not paid.

PART III

RATES ON PASSENGERS AND LUGGAGE

	s.	d.
For every person landing from or embarking in any vessel in the harbour	0	2
For any portmanteau trunk parcel or other article of passenger's luggage not carried by the passenger	0	2

EXEMPTION—

No rates shall be demanded or taken in respect of a member of the crew of a vessel.

PART IV

2ND SCH.
—cont.RATES IN RESPECT OF VESSELS OTHER THAN THOSE TO WHICH PART V
OF THIS SCHEDULE APPLIES(a) *Tonnage rates*

For every vessel entering the harbour—

4d. per register ton.

(b) *Vessels entering the harbour for bunkers only*For every vessel entering the harbour for bunkers only
(in lieu of the rates mentioned in head (a) of this Part
of this schedule)— $\frac{1}{2}$ d. per register ton.

(Maximum charge £5)

(c) *Vessels entering the harbour for repairs orders or shelter only*For every vessel entering the harbour for repairs orders
or shelter only (in lieu of the rates mentioned in head (a)
of this Part of this schedule)—

1d. per register ton.

(Minimum charge £1)

(d) *Vessels remaining in the harbour more than thirty days*For every week or part of a week during which a vessel
(not being a vessel to which heads (e) (f) (g) (h) (i) or
(j) of this Part of this schedule applies) remains in the
harbour after the expiration of thirty days from the
date of entry (in addition to the rates mentioned in
heads (a) (b) or (c) of this Part of this schedule)—

1d. per register ton.

(e) *Vessels used for the carriage of cargo within the harbour*For every year or part of a year during which a vessel
which when in use is used wholly or mainly for con-
veying animals or goods from one part of the harbour to
another part of the harbour remains in the harbour (in
addition to the rates mentioned in head (a) of this Part
of this schedule when applicable)—

	£	s.	d.
Vessels of under 100 feet in length	5	0	0
Vessels of 100 feet and under 200 feet in length ...	6	10	0
Vessels of over 200 feet in length	8	0	0

2ND SCH.
—cont.(f) *Standing hulks used for bunker purposes*

For every year or part of a year during which a standing hulk used for bunker purposes remains in the harbour (in addition to the rates mentioned in head (a) of this Part of this schedule when applicable) £25 0 0

(g) *Vessels other than standing hulks used as stores*

For every month or part of a month during which a vessel is used as a store or for a like purpose other than a standing hulk (in addition to the rates mentioned in head (a) of this Part of this schedule when applicable)—
3d. per register ton.

(h) *Floating docks*

For every year or part of a year during which a floating dock remains in the harbour (in addition to the rates mentioned in head (a) of this Part of this schedule when applicable) £15 0 0

(i) *Vessels built within the harbour*

For every week or part of a week during which a vessel built within the harbour remains therein after completion of basin trials—
½d. per register ton.
(Minimum charge 5s. 0d.)

(j) *Vessels laid up*

For every month or part of a month during which a vessel is laid up (in lieu of the rates mentioned in head (d) of this Part of this schedule)—
1d. per register ton.
(Minimum charge 10s. 0d.)

CONDITIONS

1. Vessels loading or unloading part cargo only (i.e. not more than one-third of the total cargo) will be allowed a rebate from the above rates of 33½ per centum.

2. Vessels unloading cargo for the purpose of repairs shall not be charged for the loading of the same cargo after repairs are completed.

PART V

2ND SCH.
—cont.

(a) *Vessels not used for the carriage of cargo entering or using the harbour*
For every vessel not used for the carriage of cargo entering or using the harbour except vessels to which heads (b) (c) or (d) of this Part of this schedule apply—

Length of vessel	Annual rates			Six-monthly rates			Monthly rates			Weekly rates		
	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
Not exceeding 10 ft. ...	0	10	0	0	7	6	0	3	4	0	1	3
Exceeding 10 ft. but not exceeding 20 ft. ...	1	0	0	0	15	0	0	6	8	0	2	6
Exceeding 20 ft. but not exceeding 30 ft. ...	1	10	0	1	2	6	0	10	0	0	3	9
Exceeding 30 ft. but not exceeding 50 ft. ...	3	0	0	2	5	0	1	0	0	0	7	6
Exceeding 50 ft. but not exceeding 75 ft. ...	5	0	0	3	15	0	1	13	4	0	12	6
Exceeding 75 ft. but not exceeding 100 ft. ...	6	0	0	4	10	0	2	0	0	0	15	0
Exceeding 100 ft. but not exceeding 125 ft. ...	8	0	0	6	0	0	2	13	4	1	0	0
Exceeding 125 ft. but not exceeding 150 ft. ...	10	0	0	7	10	0	3	6	8	1	5	0

(b) *Vessels used to carry passengers for hire or reward entering the harbour*

For every vessel not used for the carriage of cargo but used to carry passengers for hire or reward (in lieu of the rates mentioned in head (a) of this Part of this schedule) entering the harbour—

Under 50 register tons	3	0
Exceeding 50 register tons but not exceeding 150 register tons	5	0
Exceeding 150 register tons	7	6

(c) *Vessels used within the harbour only to carry passengers for hire or reward*

For every year during which a vessel is used solely within the harbour to carry passengers for hire or reward—
per register ton 1 0

(d) *Vessels used for towing within the harbour*

For each year or part of a year during which a vessel is used for towing within the harbour £5

2ND SCH.
—cont.

PART VI

QUAY RATES ON VESSELS

	s.	d.
For every week or part of a week during which a vessel lies alongside any quay within the harbour	10	0

CONDITIONS

Vessels scrubbing whilst lying alongside any quay shall pay rate and a half.

PART VII

RATES PAYABLE IN RESPECT OF THE USE OF BUOYS PILLARS POSTS AND
MOORINGS

	s.	d.
For every day during which a vessel makes use of any buoys pillars posts and moorings—		
Not exceeding 50 register tons	2	0
Exceeding 50 register tons but not exceeding 100 register tons	3	0
Exceeding 100 register tons but not exceeding 200 register tons	4	0
Exceeding 200 register tons but not exceeding 400 register tons	5	0
Exceeding 400 register tons but not exceeding 600 register tons	6	0
Exceeding 600 register tons	10	0

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