

ELIZABETH II



1963 CHAPTER xxxvi

An Act to abandon works authorised by the Felixstowe Dock and Railway Act, 1956, and empower the Felixstowe Dock and Railway Company to construct new works in substitution therefor; to extend and re-define the limits of the dock; to capitalise certain reserve funds and to authorise the raising of additional capital by the Company; to make provision with respect to the rates leviable by the Company in respect of the dock; and to confer further powers on the Company; and for other purposes. [31st July 1963]

WHEREAS the Felixstowe Dock and Railway Company (hereinafter referred to as "the Company") were incorporated by the Felixstowe Railway and Pier Act, 1875, under the name of the Felixstowe Railway and Pier Company and by that Act were authorised to construct a railway and pier:

And whereas by the Felixstowe Dock and Railway Act, 1879, the Company were authorised to construct a dock and railway:

And whereas by the Great Eastern and Felixstowe Railways Arrangement Act, 1887, the railway and pier authorised by the said Act of 1875 were transferred to the Great Eastern Railway Company and the name of the Company was changed to that which they now bear:

And whereas the Company are now carrying on the dock and railway undertaking authorised by the said Act of 1879 and

further powers were conferred on the Company in relation to that undertaking by the Felixstowe Dock and Railway Act, 1923, and the Felixstowe Dock and Railway Act, 1956:

And whereas by the said Act of 1956 the Company were empowered to construct a pier or jetty and jetty head:

And whereas the trade handled in the dock has increased and is likely further to increase and accordingly it would be in the public and local interest to construct the works authorised by this Act in lieu of those authorised by the said Act of 1956:

And whereas it is expedient that the Company should be authorised to acquire lands for the purpose of the said works and to reclaim part of the bed of the sea and foreshore adjacent to the said dock as in this Act provided:

And whereas part of the said works will be outside the limits of the said dock and it is expedient to extend and re-define the said limits as in this Act provided so as to bring within those limits the said works and a jetty in the vicinity of the dock which is being acquired by the Company:

And whereas the amount of the authorised and issued share capital of the Company and the amount of the authorised and exercised borrowing powers of the Company are set out in the First Schedule to this Act:

And whereas the value of the net assets comprising the undertaking is considerably in excess of the amount of the share capital of the Company and it would be equitable to increase such capital so as more nearly to represent such value by capitalising part of the substantial capital reserves of the Company by the issue to the holders of the existing ordinary stock of the Company of additional amounts of ordinary stock as in this Act provided:

And whereas it is expedient to authorise the Company to raise additional share and loan capital for the purpose of financing the construction of the works to be authorised by this Act and for the future development of the undertaking:

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

And whereas it is expedient that the other provisions contained in this Act should be enacted:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

And whereas plans and sections showing the lines and levels of Works Nos. 1, 2, 3, 4 and 5 by this Act authorised, such plans showing also the lands which may be acquired or used under the powers of this Act and for the purposes of those works together with a book of reference to the said plans containing the names of the owners or reputed owners, lessees or reputed lessees and of the occupiers of all such lands and describing the same, were

in the month of November, nineteen hundred and sixty-two, deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the clerk of the county council of the administrative county of East Suffolk:

And whereas plans and sections showing the lines and levels of Work No. 6 by this Act authorised, such plans showing also the lands which may be acquired or used under the powers of this Act and for the purposes of that work together with a book of reference to the said plans containing the names of the owners or reputed owners, lessees or reputed lessees and of the occupiers of all such lands and describing the same, were in the month of February, nineteen hundred and sixty-three, deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the clerk of the county council of the administrative county of East Suffolk:

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

PART I

PRELIMINARY

1.—(1) This Act may be cited as the Felixstowe Dock and Railway Act 1963. Short and collective titles.

(2) The Felixstowe Dock and Railway Acts, 1879 to 1956, and this Act may be cited together as the Felixstowe Dock and Railway Acts 1879 to 1963.

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

Part I.—Preliminary.

Part II.—Limits of dock.

Part III.—Works and lands.

Part IV.—Finance and administration.

Part V.—Rates.

Part VI.—Miscellaneous and general.

Division of Act into Parts.

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

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

PART I
—cont.

Provided that—

(i) Section 11 of the said Act of 1845 shall have effect as if the words “ Except as otherwise provided by the conditions of issue thereof ” were inserted at the beginning of that section;

(ii) Section 15 of the said Act of 1845 shall have effect as if for the words “ on demand ” there were substituted the words “ within two months after delivery thereof ”;

- (b) The Companies Clauses Act, 1863 (except the provisions thereof which limit the rate of dividend on preference capital, sections 17 to 21, and Part IV thereof):

Provided that—

(i) Section 14 of the said Act of 1863 shall have effect as if the words “ out of the profits of each year ” and the words “ but if in any year ” to the end of the section were omitted;

(ii) Section 22 of the said Act of 1863 shall have effect as if the words “ and to the same amount as ” were omitted;

(iii) Section 25 of the said Act of 1863 shall have effect as if the words “ or the sum of ten thousand pounds whichever of the two last-mentioned sums is the smaller sum ” were omitted; and

(iv) Section 31 of the said Act of 1863 shall have effect as if after the words “ other than ” there were inserted the words “ in the case of holders of perpetual debenture stock ”;

- (c) The Lands Clauses Acts except sections 92, 127 to 132, 150 and 151 of the Lands Clauses Consolidation Act, 1845, and section 5 of the Lands Clauses Consolidation Acts Amendment Act, 1860:

Provided that the Company being a railway company within the meaning of the Railway Companies Act, 1867, section 36 of that Act shall apply with reference to section 85 of the Lands Clauses Consolidation Act, 1845;

- (d) The provisions of the Railways Clauses Consolidation Act, 1845, with respect to the temporary occupation of lands near the railway during the construction thereof:

Provided that for the purposes of the incorporated provisions of the Railways Clauses Consolidation Act, 1845, the works authorised by this Act shall be deemed to be the railway and the centre lines of those works as shown on the deposited plans shall be deemed to be the centre of the railway;

(e) The provisions of the Harbours Clauses Act (except sections 6 to 13, 16 to 19, 23 and 84 to 87):

Provided that in the application of the Harbours Clauses Act to this Act—

(i) the Harbours Clauses Act shall be read and have effect as if the word “vessel” as defined in this Act were substituted for the meaning assigned to that word by section 3 of the Harbours Clauses Act;

(ii) nothing in the Harbours Clauses Act shall require or authorise the dock master to require the dismantling of a seaplane or any part thereof or the making of any alteration whatever of the structure or equipment of a seaplane.

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

(3) Section 14 of the Companies Clauses Act, 1863, as incorporated with this Act by paragraph (b) of subsection (1) of this section shall be deemed to be incorporated into each of the Acts and Orders comprising the Felixstowe Dock and Railway Acts, 1879 to 1956, subject to the modifications made by the said paragraph and as from the passing of this Act such of the provisions of those Acts as are inconsistent with those of the said section 14 as so incorporated shall cease to have effect.

4.—(1) In this Act the following words and expressions have the several meanings hereby assigned to them respectively unless there be something in the subject or context repugnant to such construction (that is to say):— Interpretation.

“the Act of 1923” means the Felixstowe Dock and Railway Act, 1923;

“the Act of 1956” means the Felixstowe Dock and Railway Act, 1956;

“the Company” means the Felixstowe Dock and Railway Company;

“the deposited plans” “the deposited sections” and “the deposited book of reference” mean in relation to—

(a) Works Nos. 1, 2, 3, 4 and 5 authorised by this Act and the lands which may be acquired or used under the powers of this Act and for the purposes of this Act in relation to those works the plans, sections and book of reference deposited in connection with the Bill for this Act in the month of November, nineteen hundred and sixty-two; and

(b) Work No. 6 authorised by this Act and the lands which may be acquired or used under the

PART I
—cont.

- powers of this Act and for the purposes of this Act in relation to that work the plans, sections and book of reference deposited in connection with the Bill for this Act in the month of February, nineteen hundred and sixty-three;
- “the directors” means the directors for the time being of the Company;
- “the dock” means the dock constructed by the Company in pursuance of the powers conferred on them by the Felixstowe Dock and Railway Acts, 1879 to 1956, and includes the open cut or channel also constructed under the said powers, the works, and the land, buildings, works, plant, property and conveniences connected therewith as for the time being existing;
- “enactment” means any provision of a public general Act, of a local private or personal Act, of a Provisional Order confirmed by an Act or of any regulation or order made under an Act;
- “the existing works” has the same meaning as in the Act of 1956;
- “the Harbours Clauses Act” means the Harbours, Docks and Piers Clauses Act, 1847;
- “the highway authority” means in the case of a highway maintainable at the public expense, the authority in whom that highway is vested;
- “hover vehicle” means a vehicle designed to be supported on a cushion of air;
- “land” includes land covered with water and any interest in land and any easement or right in to or over land;
- “the Lands Clauses Acts” means the Lands Clauses Acts as modified by the Lands Tribunal Act, 1949, and by the Land Compensation Act, 1961;
- “the limits of deviation” means the limits of deviation shown on the signed plans;
- “the Minister” means the Minister of Transport;
- “rates” includes rents, charges and sums of money;
- “seaplane” includes a flying boat and any other aircraft designed to manoeuvre on the water but does not include a hover vehicle;
- “share” means share in the share capital of the Company and includes stock except where a distinction between stock and shares is expressed or implied and “share capital” and “shareholder” shall be construed accordingly;
- “the signed plans” means the plans signed in quintuplicate by the Right Honourable the Lord Strang, the chairman

of the committee of the House of Lords to whom the Bill for this Act was referred, of which one copy has been deposited at the office of the Clerk of the Parliaments, House of Lords, one copy in the Private Bill Office of the House of Commons, one copy with the Minister of Transport, one copy with the clerk of the county council of the administrative county of East Suffolk and one copy with the clerk of the council of the urban district council of Felixstowe;

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

“ the tribunal ” means the Lands Tribunal;

“ the undertaking ” means the undertaking of the Company as for the time being existing;

“ vessel ” includes—

(a) any ship, boat, raft or craft of every class or description, howsoever navigated or propelled, a hover vehicle and (except for the purpose of levying rates) a seaplane on the surface of the water; and

(b) for the purposes of section 28 (Powers with respect to disposal of wrecks) and section 29 (Protection of Crown interests in wrecks) of this Act an aircraft of any description (whether designed to manoeuvre on the water or not);

“ the works ” means the works authorised by section 7 (Power to make works) of this Act and any works constructed under section 8 (Subsidiary works) of this Act for or in connection with or subsidiary to any of those works and includes those works as extended, enlarged, altered, replaced or relaid under subsection (2) of that section and “ work ” shall be construed accordingly.

(2) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by or by virtue of any subsequent enactment including this Act.

PART II

LIMITS OF DOCK

5. As from the passing of this Act the limits of the dock shall be further extended and shall be the area described in the Second Schedule to this Act.

PART III

WORKS AND LANDS

6. The Company shall abandon the construction of the works authorised by section 8 (Power to make works) of the Act of 1956.

PART III
—cont.Power to
make works.

7.—(1) The Company may make and maintain in the lines and situations and upon the lands delineated on the deposited plans and described in the deposited book of reference and according to the levels shown on the deposited sections the works hereinafter described (that is to say):—

Work No. 1 A pier or jetty substantially of open, but partly of solid, construction commencing at a point on the high-water mark of ordinary spring tides five hundred and fifty feet or thereabouts measured in a northerly direction from the point of intersection of the north and west walls of the dock basin and terminating by a junction with Work No. 2 at a point one thousand one hundred feet or thereabouts measured in a west-south-westerly direction from the point of commencement, having decks of timber or concrete or steel (or any combination thereof) with roadways, walkways and pipeways thereon:

Work No. 2 A jetty head for berthing vessels of open construction commencing at a point one hundred and thirty-five feet or thereabouts measured in a south-easterly direction from the termination of Work No. 1 and terminating at a point two hundred and seventy feet or thereabouts measured in a north-westerly direction from the point of commencement consisting of a strong point and dolphins connected thereto by walkways and having decks of timber or concrete or steel (or any combination thereof):

Work No. 3 A pier or jetty substantially of open, but partly of solid, construction commencing at a point on the high-water mark of ordinary spring tides eight hundred feet or thereabouts measured in a north-easterly direction from the point of intersection of the north and west walls of the dock basin and terminating by a junction with Work No. 4 at a point fifteen hundred and fifty feet or thereabouts measured in a westerly direction from the point of commencement having decks of concrete or steel (or a combination thereof) with roadways, walkways and pipeways thereon:

Work No. 4 A jetty head for berthing vessels commencing at a point twenty feet or thereabouts measured in a south-easterly direction from the termination of Work No. 3 and terminating at a point six hundred feet or thereabouts measured in a north-westerly direction from the point of commencement, having decks of timber or concrete or steel (or any combination thereof) supported on solid or partly open and partly solid structures consisting of piles, columns or caissons of concrete or steel (or a combination thereof):

Work No. 5 A loading ramp for vehicles commencing by a junction with Work No. 3 at a point fifty feet or thereabouts measured in an easterly direction from the termination of that work and terminating at a point one hundred and fifty feet or thereabouts measured in a north-westerly direction from the point of commencement having decks of timber or concrete or steel (or any combination thereof) and supported in whole or in part on open or partly open and partly solid structures consisting of piles, columns or caissons of concrete or steel (or a combination thereof) or on pontoons with guide and mooring dolphins:

PART III
—cont.

Work No. 6 A sea wall incorporating—

(a) berths for ships; and

(b) a loading ramp for vehicles of fixed or movable construction supported on piles or pontoons or both with dolphins;

being partly of solid or open construction in steel, timber or concrete and partly formed by a revetted embankment commencing at the junction of the South Pier with the existing sea wall and extending westwards for one hundred and fifty feet or thereabouts, thence south-westwards for three hundred feet or thereabouts thence southwards for fourteen hundred feet or thereabouts and thence eastwards for six hundred feet or thereabouts to and terminating at the existing sea wall at a point fifteen hundred and seventy-five feet or thereabouts measured in a south-easterly direction from the point of commencement.

(2) The Company may within the limits of deviation for the said works extend, enlarge, alter, replace or relay the same.

(3) The Company may by means of Work No. 6 enclose and reclaim from the foreshore and bed of the sea and may hold and use as part of the undertaking so much of the foreshore and bed of the sea as is situate within the limits of deviation of that work and is required for or in connection therewith.

8.—(1) Subject to the provisions of this Act, the Company Subsidiary for the purposes of or in connection with the existing works or the works authorised by section 7 (Power to make works) of this Act may in addition to such works—

(a) execute, place and keep, either permanently or temporarily, all such caissons, cofferdams, piles, piers, quays, abutments, embankments, cuts, channels, approaches, ways, access works, pumping works, wharves, walls, fences, drains, sewers, tunnels, fenders, mooring posts, bollards, booms, dolphins, pontoons, stagings, warehouses, sheds, lifts, cranes, winches,

PART III
—cont.

capstans, gantries, conveyors, staithes, tips, railways, tramways, junctions, sidings, turntables, stairs, subways, buildings and other works and conveniences as they may find necessary or expedient for or in connection with the construction, maintenance or use of the works;

(b) temporarily or permanently use, strengthen, widen, improve, alter or otherwise interfere with drains, sewers, submarine cables, telegraphic, telephonic, electric, gas, water and other pipes, lines, wires, works and apparatus (all of which are hereinafter in this section referred to as "apparatus") and streets and railways, providing where possible a proper substitute before interrupting the passage of sewage, electricity, gas or water in or through any apparatus or the traffic on any such street;

(c) raise, sink or otherwise alter the level of any land:

Provided that the powers conferred on the Company—

(i) by this subsection in relation to the works authorised by the said section 7 shall not be exercised outside the limits of deviation for those works;

(ii) by paragraph (c) of this subsection shall not be exercised except for the purposes of or in connection with Work No. 6 authorised by this Act or in relation to the land coloured pink on the signed plans.

(2) Any paving, metalling or materials in, on or under any street altered or otherwise interfered with by the Company under the powers of this section and rendered unnecessary and any apparatus rendered unnecessary by the substitution of other apparatus therefor shall vest in the Company and the substituted apparatus shall be under the same jurisdiction, care, management and direction as the existing apparatus for which it may be so substituted.

(3) In the exercise of the powers conferred by this section, the Company shall cause as little detriment and inconvenience as the circumstances permit to any person and shall make reasonable compensation for any damage caused to any person by the exercise of such powers.

(4) (a) Before executing any works under paragraph (b) of subsection (1) of this section for the purposes of or in connection with the works affecting any apparatus (not being a drain, sewer or pipe belonging to or repairable by the local authority), the Company shall submit to the appropriate authority sufficient plans of the proposed works for their reasonable approval and shall not commence the works until such plans have been approved in writing by the appropriate authority or, if not so approved, until they have been settled by arbitration:

Provided that if within twenty-eight days after such plans have been furnished to the appropriate authority, they shall not have intimated their disapproval thereof and the grounds of the disapproval they shall be deemed to have approved them.

(b) The Company shall execute such works in accordance with such plans as may be submitted to and approved by the appropriate authority or, if such approval be refused, as may be settled by arbitration and all such works shall be executed to the reasonable satisfaction of the appropriate authority and the Company shall at all times afford to the representative of the appropriate authority access for the purpose of inspecting such works.

(c) The Company shall give reasonable notice to the appropriate authority of the time at which such works are intended to be executed and shall comply with such reasonable conditions as the appropriate authority may require (including in the case of any electric line wire or apparatus conditions for obviating or reducing interference with the supply or distribution of electricity).

(d) Any dispute or difference which may arise between the appropriate authority and the Company under this subsection (other than one relating to disputed compensation) shall be settled by arbitration.

(e) In this subsection—

“the appropriate authority” means in relation to any apparatus the authority to whom it belongs or by whom it is repairable;

“local authority” means the council of a borough, urban district or rural district; and

“plans” includes sections and particulars.

(5) Notwithstanding anything in this section contained the Company shall not—

(a) use any telegraphic line belonging to or used by the Postmaster General;

(b) alter (as defined in the Telegraph Act, 1878), any such line except in accordance with and subject to the provisions of paragraphs (1) to (8) of section 7 of the said Act of 1878.

(6) Any electrical works or equipment constructed, erected, laid down, maintained, worked or used in pursuance of the powers conferred by this section shall be so constructed, erected or laid down and so maintained, worked and used as to prevent interference with any telegraphic line belonging to or used by the Postmaster General or with telegraphic communication by means of any such line or with any apparatus of statutory undertakers (as defined by the Public Health Act, 1936), or with any purpose for which such apparatus is used.

PART III
—cont.

(7) Any telegraphic and telephonic apparatus used under the provisions of this section shall be so used as not to contravene the exclusive privilege conferred upon the Postmaster General by the Telegraph Act, 1869.

(8) Any question of disputed compensation payable under the provisions of this section shall be determined under and in accordance with the Land Compensation Act, 1961.

(9) In this section “street” has the same meaning as in the Public Utilities Street Works Act, 1950.

Temporary
stoppage of
highways.

9.—(1) The Company during and for the purpose of the execution of the works may with the consent of the highway authority temporarily stop up and divert and interfere with any highway within the limits of deviation and may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to or from any land, house or building abutting on the highway from passing along and using the same.

(2) The Company shall provide, whenever possible, a proper temporary substitute way before interrupting the traffic on any highway.

(3) The Company shall provide reasonable access for foot-passengers bona fide going to or from any such land, house or building.

(4) The exercise by the Company of the powers conferred by this section in relation to any highway shall not prejudice or affect the right of the Postmaster General—

(a) to maintain, inspect, repair, renew or remove any telegraphic line belonging to or used by him which may for the time being be under, in, upon, over, along or across that highway; or

(b) for the purpose of such maintenance, inspection, repair, renewal or removal to enter upon or break open that highway.

Power to
acquire lands.

10.—(1) Subject to the provisions of this Act the Company may enter upon, take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as may be required for the purpose of the works or for the purpose of obtaining access thereto.

(2) The power of the Company for the compulsory purchase of land under this section shall cease after the expiration of three years from the first day of October, nineteen hundred and sixty-three.

Acquisition
of part only
of certain
properties.

11.—(1) For the purposes of this Act, the following provisions of this section shall have effect in substitution for section 92 of the Lands Clauses Consolidation Act, 1845.

(2) No person shall be required to sell a part only of any house, building or factory or of a park or garden belonging to a house if he is willing and able to sell the whole of the house, building, factory, park or garden unless the tribunal determines—

- (a) in the case of a house, building or factory, that such part as is proposed to be taken can be taken without material detriment to the house, building or factory; or
- (b) in the case of a park or garden, that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house to which it belongs.

(3) If the tribunal determines as aforesaid, compensation shall be awarded in respect of any loss due to the severance of the part proposed to be taken in addition to the value of that part and thereupon the person interested shall be required to sell to the Company that part of the house, building, factory, park or garden.

12.—(1) In lieu of acquiring any land that may be acquired under this Act, the Company may, for the purposes of constructing, using and maintaining the works and doing anything necessary in connection therewith, acquire such easements and rights in that land as they may require for those purposes.

Power to
acquire
easements
only.

(2) Accordingly the Company may give notice to treat in respect of any such easement or right describing the nature thereof and may exercise the powers of this Act, including in particular section 40 (Power to expedite entry) of the Act of 1956 as incorporated with this Part of this Act in respect of such easements or rights, and, subject thereto, the provisions of the Lands Clauses Acts shall apply in relation to the acquisition of such easements and rights as if they were lands within the meaning of those Acts.

(3) Where the Company have acquired an easement or right only in any land under this section—

- (a) they shall not be required or (except by agreement or during the execution of the works) entitled to fence off or sever that land from the adjoining land;
- (b) the owner or occupier of the land for the time being shall subject to the easement or right have the same right to use the land as if this Act had not been passed.

(4) If, in his particulars of claim, the owner of any land in respect of which notice to treat for an easement or right is given under this section requires the Company to acquire the land, the Company shall not be entitled under this section to acquire the easement or right unless the tribunal determines that the easement or right can be granted without material detriment to the land, or, in the case of a park or garden belonging to a house, without seriously affecting the amenity or convenience of the house:

PART III
—cont.

Provided that nothing in this subsection shall apply to land forming part of a street.

(5) A notice to treat given under this section shall be endorsed with notice of the effect of subsection (4) of this section.

Incorporation
of provisions
of Act of
1956 relating
to works and
lands.

13.—(1) The following provisions of the Act of 1956 shall so far as they are applicable to the purposes and are not inconsistent with the provisions of this Act be incorporated with and form part of this Part of this Act and shall extend and apply to and for the purposes of the said Act as if those provisions with any necessary modifications were re-enacted in this Act:—

Section 10 (Power to deviate);

Section 11 (New works to form part of the undertaking);

Section 12 (New works to be within the petty sessional division and the urban district of Felixstowe);

Section 13 (Period for completion of new works);

Section 14 (Lights on Works during construction);

Section 15 (Works below high-water mark to be subject to approval of Minister);

Section 16 (Permanent lights on works);

Section 17 (Provision against danger to navigation);

Section 18 (Abatement of work abandoned or decayed);

Section 19 (Power to dredge);

Section 20 (Survey of works by Minister);

Section 21 (Company to dredge Harwich Harbour if silt accumulated);

Section 24 (Notice of use of explosives);

Section 39 (Correction of errors in deposited plans and book of reference);

Section 40 (Power to expedite entry);

Section 41 (Power to enter for survey or valuation);

Section 42 (Disregard of recent improvements and interests);

Section 43 (Extinction of private rights of way);

Section 46 (Grant of easements by persons under disability);

and in particular (but without prejudice to the generality of the foregoing provisions of this section) for the purposes of such extension and application—

(a) references in any of the said provisions of the Act of 1956 to the new works shall be construed as references to the works;

(b) references in any of the said provisions of the Act of 1956 to the deposited plans, the deposited sections or the deposited book of reference (as defined in the Act

- of 1956) shall be construed as references to the deposited plans, the deposited sections and the deposited book of reference (as defined in this Act);
- (c) the said section 13 shall have effect as if for the words “one thousand nine hundred and fifty-six” there were substituted the words “one thousand nine hundred and sixty-three”;
 - (d) subsection (3) of the said section 39 shall have effect as if after the words “Any such certificate shall be deposited” there were inserted the words “in the office of the Clerk of the Parliaments and a copy thereof in the Private Bill Office, House of Commons and”;
 - (e) the said section 40 shall have effect as if for the words “not less than one month” there were substituted the words “not less than three months”;
 - (f) the said section 41 shall have effect as if in the proviso to that section for the words “twenty-four hours” there were substituted the words “seven days” and for the words “twelve hours” there were substituted the words “twenty-four hours”;
 - (g) the said section 42 shall have effect as if in paragraph (a) thereof for the words “one thousand nine hundred and fifty-five” there were substituted the words “one thousand nine hundred and sixty-two”;
 - (h) the said section 43 shall have effect as if in subsection (2) thereof for the reference to the Lands Clauses Acts there were substituted a reference to the Land Compensation Act, 1961.

(2) Notwithstanding anything in section 10 of the Act of 1956 as incorporated with this Act the Company shall not deviate laterally from the lines or situations of the works shown on the deposited plans to an extent greater than the limits of deviation shown on the signed plans.

PART IV

FINANCE AND ADMINISTRATION

14.—(1) On the appointed day the sum of two hundred and ninety-one thousand five hundred pounds being part of the balance standing to the credit of the capital reserve account of the Company shall be capitalised and transferred from that account to the ordinary share capital account of the Company and applied in the paying up in full of the amounts of ordinary stock created and issued in accordance with the provisions of this section.

Capitalisation
of reserves
and issue to
ordinary
stockholders.

(2) As on the appointed day there shall by virtue of this section be created two hundred and ninety-one thousand five hundred pounds of ordinary stock and the ordinary stock so

PART IV
—cont.

created shall be issued to and shall as from the appointed day be vested without payment in the persons who immediately before the appointed day are entitled to be the holders of the existing ordinary stock according to their respective holdings, as follows:—

for each one pound of existing ordinary stock one pound of ordinary stock.

(3) The Company shall as soon as is reasonably practicable after the appointed day free of charge register each such holder in the books of the Company as the holder of the amount of the ordinary stock which he is to receive under the provisions of the foregoing subsection and issue to him a certificate for such stock.

(4) The amounts of ordinary stock created by virtue of subsection (2) of this section shall form part of the ordinary stock of the Company and shall confer on the holders the same rights as and shall rank for dividend and in all other respects *pari passu* with the existing ordinary stock.

(5) The register of transfers of the ordinary stock shall be closed during the period of fourteen days immediately before the appointed day.

(6) Any transfer of an amount of the ordinary stock made during the time when the register of transfers is closed shall as between the Company and the person claiming under the transfer but not otherwise be considered as made subsequent to the appointed day.

(7) The persons whose names appear immediately before the appointed day in the register of the ordinary stock of the Company to be the holders of the existing ordinary stock shall unless the contrary be proved to the satisfaction of the directors be considered to be the holders of that stock and the receipt in writing of such persons or of their executors or administrators or of the guardian of the estate of any such person being a minor shall be an effectual discharge to the Company and the directors.

(8) Where the directors are for three months after the appointed day unable after diligent inquiry to ascertain the person to whom any stock ought to be issued in pursuance of this section or who can give an effectual receipt therefor they may at any time after the expiration of that period lodge such stock in court as if it belonged to a trust of which they were trustees.

(9) In this section—

“the appointed day” means the first day of January, nineteen hundred and sixty-four; and

“existing ordinary stock” means the two hundred and ninety-one thousand five hundred pounds of ordinary stock of the Company existing at the passing of this Act.

15. In addition to the capital created or authorised by the Act of 1956 and the capital created and issued under section 14 (Capitalisation of reserves and issue to ordinary stockholders) of this Act the Company may from time to time after the passing of this Act raise by the creation and issue of further amounts of ordinary stock or by the creation and issue of new ordinary shares or stock or preference shares or stock or wholly or partly by any one or more of those modes respectively such sums as (when added to the nominal amount of any ordinary stock issued to the holders of convertible debenture stock which has been issued under section 21 (Issue of convertible debenture stock) of this Act) shall not exceed in the aggregate two million four hundred and seventeen thousand pounds.

PART IV
—cont.
Additional capital.

16. The Company may, without obtaining a certificate of a justice under section 40 of the Companies Clauses Consolidation Act, 1845, raise for the purposes of the undertaking, either by borrowing on mortgage of the undertaking, or by the creation and issue of debenture stock, or partly by one of those modes and partly by the other, any sum or sums of money not exceeding in the whole (when added to any money borrowed on mortgage or raised by the creation and issue of debenture stock by the Company and which is for the time being outstanding) three million pounds.

Power to borrow.

17. In addition to the powers to borrow money on mortgage of the undertaking, or to raise money by the creation and issue of debenture stock conferred on the Company by the last foregoing section of this Act, the Company may, for the purposes of or in connection with the undertaking, borrow by way of temporary loans or overdrafts from banks or otherwise, any sums which they may temporarily require—

Company may incur temporary loans.

- (a) for the purpose of defraying expenses pending the receipt of revenues receivable by them in respect of the period of account in which those expenses are chargeable:

Provided that the aggregate amount outstanding at any time of the moneys so borrowed shall not exceed two hundred and fifty thousand pounds; and

- (b) for the purpose of defraying, pending the issue of shares of any description, or the borrowing of money (such issue or borrowing being within the statutory powers of the Company at the time when the powers of this section to borrow temporarily are exercised), expenses intended to be defrayed by means of such issue or borrowing, as the case may be.

18. It shall not be lawful to exercise the powers of borrowing or raising capital conferred by this Act otherwise than in compliance with the provisions of any order for the time being in

Saving for powers of Treasury.

PART IV
—cont.

force made under section 1 of the Borrowing (Control and Guarantees) Act, 1946.

Ranking of existing mortgage and redeemable debentures.

19.—(1) The mortgage and the redeemable debentures described in the First Schedule to this Act so long as and to the extent that they respectively subsist shall both as to the principal moneys secured thereby and as to the interest payable thereon rank *pari passu* and shall have priority over any mortgages granted or debenture stock created and issued by the Company after the passing of this Act.

(2) Paragraph (e) of clause 4 of the conditions subject to which the said redeemable debentures were issued shall not apply to the granting of any mortgage or debenture or to the creation and issue of any debenture stock under the powers of this Act, except any mortgage, debenture or debenture stock having a fixed date of redemption before the first day of May, nineteen hundred and eighty-two.

Debenture stock.

20. The Company may create and issue debenture stock subject to the provisions of Part III of the Companies Clauses Act, 1863, as amended in its application to the Company, but notwithstanding anything therein contained the principal moneys secured by and the interest on all mortgages, debentures and debenture stock created and issued by the Company under this Act or any subsequent Act shall (subject to the provisions of any subsequent Act) rank *pari passu*.

Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock issued after the passing of this Act.

Issue of convertible debenture stock.

21.—(1) Any debenture stock (hereinafter in this section referred to as “convertible debenture stock”) created and issued by the Company under the last foregoing section may have attached to it a right to the holder to have issued to him in substitution for the whole or any part of his holding of convertible debenture stock an amount of ordinary stock at such time or times and subject to such terms and conditions as the Company think fit.

(2) Any convertible debenture stock in respect of which the right to convert into ordinary stock has been exercised shall upon the right being exercised be deemed to have been paid off and cancelled.

Incorporation of provisions of Act of 1956 relating to finance.

22. The following provisions of the Act of 1956 shall (subject to the provisions of this Act) extend and apply to any ordinary shares or stock or preference shares or stock created and issued under the provisions of section 15 (Additional capital) of this Act, and to any debenture stock or mortgages created and issued or

granted under the provisions of section 16 (Power to borrow) of this Act, or to any moneys raised thereby, as if those provisions with any necessary modifications were re-enacted in this Act:—

PART IV
—cont.

Section 57 (Additional share capital to be part of general capital);

Section 62 (Priority of mortgages and debenture stock over other debts);

Section 63 (Appointment of receiver);

Section 64 (Application of money):

Provided that—

- (a) the said section 57 shall have effect as if for the reference to subsection (2) of section 56 of that Act, there were substituted a reference to section 15 (Additional capital) of this Act;
- (b) the said section 62 shall have effect as if for the reference therein to the Felixstowe Dock and Railway Act, 1879, there were substituted a reference to the Act of 1956;
- (c) the said section 64 shall have effect as if for the references therein to the Felixstowe Dock and Railways Acts, 1879 to 1956, there were substituted references to this Act.

23.—(1) Notwithstanding anything contained in section 76 of the Companies Clauses Consolidation Act, 1845, as incorporated with the Felixstowe Dock and Railway Acts 1879 to 1963, a person appointed a proxy for the purpose of any meeting of the Company need not be a shareholder in the Company. Proxies.

(2) Without prejudice to the provisions of the foregoing subsection, where the shareholder is a body corporate, that body may by resolution of its directors or other governing body authorise such persons as it thinks fit to act as its representative at any such meeting, and a person so authorised shall be entitled to exercise the same powers on behalf of that body as it could exercise if it were an individual shareholder personally present.

PART V

RATES

24. As from the passing of this Act the Company may in lieu of the rates specified in Part 1 of the First Schedule to the Act of 1923 demand and take in respect of every vessel using the dock or berthing at or unberthing from the piers, quays and wharves rates not exceeding those specified in the Third Schedule to this Act subject to the conditions specified in that schedule. Rates on vessels.

PART V
—cont.

Rates for services and accommodation not otherwise provided for.

25.—(1) The Company may (so far as the rates specified in Parts 2 and 3 of the First Schedule to the Act of 1923 and in the Third Schedule to this Act do not extend) demand and take such reasonable rates as they may from time to time determine in respect of the use of any sheds, buildings, yards, weighing-machines, moorings, cranes, buoys, works and conveniences belonging to or provided by the Company for the purposes of the undertaking or in respect of any supplies and services rendered by them in connection with the dock.

(2) All such rates shall be respectively recoverable from the owner of the goods dealt with, or from the owner of any vessel using or applying for the use of such sheds, buildings, yards, weighing-machines, moorings, cranes, buoys, works or conveniences, or for such supplies or services, or from any person who may so apply.

Power to vary exemptions and compound for rates.

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

PART VI

MISCELLANEOUS AND GENERAL

Crane pier to form part of dock.

27. Upon the acquisition by the Company of the approach jetty known as the crane pier situate on the part of the foreshore which lies to the south of the dock it shall for all purposes form part of the dock.

Powers with respect to disposal of wrecks.

28.—(1) In their application to the Company sections 530 and 532 of the Merchant Shipping Act, 1894, shall have effect—

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

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

(2) Subject to subsection (3) of this section, and to any enactment for the time being in force limiting their liability the Company may recover as a simple contract debt from the owner of any vessel in relation to which they have exercised their powers under the said section 530 or the said section 532 any expenses reasonably incurred by them under those sections in relation to that vessel which are not reimbursed out of any proceeds of sale within the meaning of those sections.

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

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

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

29.—(1) Without prejudice to section 741 of the Merchant Shipping Act, 1894, as modified by any Order in Council made under section 80 of the Merchant Shipping Act, 1906, the powers conferred on the Company by sections 530 and 532 of the said Act of 1894 shall not be exercisable—

- (a) in relation to any vessel sunk, stranded or abandoned by design by or under the orders of a person acting on behalf of Her Majesty or an officer or servant of the Crown acting in the course of his duty as such;
- (b) except with the consent of the Admiralty, which may be given with or without such a direction as is referred to in paragraph (b) of the next following subsection, in relation to any vessel which is not excluded from the exercise of those powers by virtue of being a vessel

Protection
of Crown
interests
in wrecks.

PART VI
—cont.

belonging to Her Majesty but which, at the time when the vessel was sunk, stranded or abandoned—

(i) had been required to be placed at the disposal of Her Majesty or of a Government department; and

(ii) was appropriated to the service, under the direction and control of the Admiralty of Her Majesty's ships of war.

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

(a) except with the consent of the Admiralty and the Minister before the expiration of a period of fourteen days from the giving of the notice; or

(b) if before the expiration of the said period there is served on the Company a direction by the Admiralty or the Minister that those powers shall not be exercised in relation to that vessel, except in such a case as aforesaid;

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

Provided that—

(i) the Company shall not be required to give notice under this subsection in respect of any vessel in respect of which they have received a consent under paragraph (b) of the foregoing subsection, but any direction such as is referred to in paragraph (b) of this subsection accompanying that consent shall be deemed for the purposes of this subsection and of subsection (3) of the last foregoing section to have been duly served under paragraph (b) of this subsection;

(ii) the prohibition on the use of explosives imposed by this subsection shall not apply to the use for cutting away the superstructure of a vessel of such small explosive charges as may for the time being be approved by the Minister for the purposes of this proviso.

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

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

30. The following provisions for the protection of the river board and the drainage board unless otherwise agreed in writing between the Company on the one hand and the river board or the drainage board on the other shall apply and have effect:—

For protection of East Suffolk and Norfolk River Board and Felixstowe Internal Drainage Board.

(1) In this section unless the context otherwise requires—

“ authorised work ” means so much of—

- (i) the works;
- (ii) the alteration, enlargement or extension of any of the existing works; or
- (iii) the extension, enlargement, alteration, replacements or relaying of the works;

as affects any of the protected property;

“ the drainage board ” means the Felixstowe Internal Drainage Board;

“ plans ” includes sections and (when reasonably required by the protected authority) working drawings;

“ the protected authority ” means—

(a) the river board in relation to any protected property belonging to or under the jurisdiction of the river board; and

(b) the drainage board in relation to any protected property belonging to or under the jurisdiction of the drainage board;

“ the river board ” means the East Suffolk and Norfolk River Board;

PART VI
—cont.

“protected property” means any works or apparatus now or hereafter constructed or provided by the river board or any works under their jurisdiction or under the jurisdiction of the drainage board including the sluice and outfall works of the Landguard Marshes Pumping Station:

- (2) (a) The Company shall before commencing to construct any authorised work submit to the protected authority for their reasonable approval plans thereof and of any temporary works. If the protected authority do not within twenty-eight days after the submission to them of any such plans signify to the Company in writing their approval or disapproval thereof they shall be deemed to have approved thereof;
- (b) No authorised work shall be constructed otherwise than in accordance with such plans as may have been approved (or deemed to have been approved) by the protected authority or if such approval be withheld as may be settled by the Minister and any such work shall be executed to the reasonable satisfaction of the protected authority:

Provided that in any case where any plans have been submitted both to the river board and to the drainage board and either of these boards disapprove such plans the plans shall not be deemed to have been approved unless approved by both the boards or settled by the Minister:

- (3) The Company shall at all times keep the protected authority indemnified against all damages, losses, costs and expenses which they may sustain or be liable for or reasonably and properly incur by reason or in consequence of any injury, damage or interference which may be caused or may result to any protected property and in the case of the sluice and outfall works of the Landguard Marshes Pumping Station to the operation thereof in the exercise of any powers conferred by this Act:

Provided that the protected authority shall give to the Company notice of any claim or demand made against them which in the opinion of the protected authority is a claim or demand for which the Company may be liable under this subsection and no settlement or compromise of any such claim or demand shall be made without the consent in writing of the Company:

- (4) The fact that any work or thing has been executed or done in accordance with a plan approved or deemed to

be approved by the protected authority or to their satisfaction or in accordance with any directions or award of an arbitrator shall not relieve the Company from any liability under the provisions of this section:

PART VI
—cont.

- (5) Except as otherwise expressly provided by this section any difference arising under this section between the Company and the protected authority shall be referred to arbitration.

31. For the protection of the urban district council of Felixstowe (in this section referred to as “the council”) the following provisions shall, unless otherwise agreed in writing between the Company and the council, apply and have effect:—

For protection
of Felixstowe
Urban District
Council.

- (1) In this section unless the context otherwise requires—

“ authorised work ” means so much of—

- (a) Work No. 6 authorised by this Act;
- (b) the extension, enlargement, alteration, replacement or relaying of the said Work No. 6; or
- (c) any subsidiary work carried out under the powers of section 8 (Subsidiary works) of this Act;

as affects the sewer;

“ plans ” includes sections and, when reasonably required by the council, working drawings;

“ the sewer ” means the outfall sewer of the council from the sewage tanks at the sewage pumping station of the council and includes the said sewer as diverted or extended under this section:

- (2) Notwithstanding anything in this Act or shown on the deposited plans the Company shall not without the consent of the council which is not to be unreasonably withheld—
- (a) take compulsorily any part of the sewer; or
 - (b) alter or interfere with the sewer or any drains, pipes or other property of the council:

- (3) (a) Except in an emergency before commencing to construct any authorised work the Company shall submit to the council for their reasonable approval plans thereof and of any temporary works. If the council do not within twenty-eight days after the submission to them of any such plans signify to the Company in writing their approval or disapproval thereof they shall be deemed to have approved thereof;

PART VI
—cont.

(b) No authorised work shall be constructed otherwise than in accordance with such plans as may have been approved (or deemed to have been approved) by the council or if such approval be withheld as may be settled by the Minister and any such work shall be executed to the reasonable satisfaction of the council:

(4) If it is agreed between the Company and the council or in default of agreement determined by arbitration that in consequence of—

(a) the proposed or actual construction or execution of any authorised work; or

(b) the exercise by the Company of their powers under section 19 (Power to dredge) of the Act of 1956 as incorporated with Part III of this Act;

it is reasonably necessary to divert or extend the sewer or to carry out any works in relation to the sewer, the said diversion, extension or works (as the case may be) shall be carried out by the Company at their own expense, under the supervision (if given) and to the reasonable satisfaction of the council:

(5) The provisions of paragraph (3) of this section shall apply to any extension or diversion of the sewer under paragraph (4) of this section as if the said extension or diversion were the construction of an authorised work:

(6) Any extension or diversion of the sewer shall when completed vest in the council and shall for all purposes be deemed to have been constructed by them in pursuance of the powers conferred by section 15 of the Public Health Act, 1936:

(7) The Company shall at all times keep the council indemnified against all damages, losses, costs and expenses which they may sustain or be liable for or reasonably and properly incur by reason or in consequence of any injury or damage which may be caused or may result to the sewer or as a result of any interference in the operation thereof by or as a direct consequence of the construction of an authorised work or the exercise of any powers conferred by this Act or the Act of 1956:

Provided that the council shall give to the Company notice of any claim or demand made against them which in the opinion of the council is a claim or demand for which the Company may be liable under this paragraph and no settlement or compromise of any such claim or demand shall be made without the consent in writing of the Company:

- (8) Except as otherwise expressly provided by this section any difference which may arise between the Company and the council under this section (other than a difference as to the meaning or construction of this section) shall be referred to and determined by arbitration.

32. The following provisions for the protection of the commission shall, unless otherwise agreed in writing between the Company and the commission, apply and have effect:—

For protection
of Ipswich
Dock
Commission.

- (1) In this section—

“ authorised work ” means Work No. 1, 2, 3, 4 or 5 and includes—

- (a) the extension, enlargement, alteration, replacement or relaying of any of those works; and
(b) any subsidiary work carried out under section 8 (Subsidiary works) of this Act in connection with any of those works;

“ the commission ” means the Ipswich Dock Commission;

“ the estuary ” means the estuary formed by the confluence of the rivers Orwell and Stour;

“ plans ” includes sections:

- (2) So much of Work No. 1 and of Work No. 3 (either as originally constructed or as extended, enlarged, altered, replaced or relaid under subsection (2) of section 7 (Power to make works) of this Act) as is situated seawards of the area coloured pink on the signed plans and as is vertically below the level of mean high-water springs shall be of open construction:

- (3) For the purpose of ensuring that no authorised work will impede more than is reasonably necessary the tidal flow in the estuary or have an adverse effect on the regime of the estuary the Company—

(a) shall before commencing an authorised work submit to the commission for their reasonable approval plans of such work showing the general mode of construction thereof and the extent to which it is of open and solid construction; and

(b) shall not commence the authorised work until such plans have been approved by the commission or in the case of difference until they shall have been settled by the Minister:

PART VI
—cont.

Provided that if the commission do not within twenty-eight days after the receipt of any such plans signify to the Company their disapproval thereof and the grounds for their disapproval they shall be deemed to have approved thereof:

- (4) Subject to the provisions of this section an authorised work shall not be constructed except in accordance with such plans as may be approved or deemed to be approved by the commission as aforesaid or settled by the Minister:
- (5) The Company shall at all reasonable times afford to the duly authorised representative of the commission all reasonable facilities for inspecting an authorised work in the course of construction:
- (6) Any plans approved by the Minister under section 15 (Works below high-water mark to be subject to approval of Minister) of the Act of 1956 as incorporated with Part III of this Act of either Work No. 1 or Work No. 2 authorised by that Act shall in relation to the substituted work be deemed also to have been approved by the commission and for the purposes of this paragraph “the substituted work” means, in relation to Work No. 1 authorised by the Act of 1956, Work No. 1 authorised by this Act and, in relation to Work No. 2 authorised by the Act of 1956, Work No. 2 authorised by this Act.

Provisions applicable to last three sections.

33.—(1) If there shall be any inconsistency between any plans approved or deemed to have been approved by a protected authority under the relevant section and the plans approved by the Minister under section 15 (Works below high-water mark to be subject to approval of Minister) of the Act of 1956 as incorporated with Part III of this Act the authorised work to which the plans relate shall be constructed in accordance with the plans approved by the Minister.

(2) In this section—

“authorised work” has the meaning assigned to that expression in the relevant section;

“protected authority” means the Felixstowe Urban District Council, the Felixstowe Internal Drainage Board, the East Suffolk and Norfolk River Board or the Ipswich Dock Commission;

“relevant section” means whichever of the last three sections of this Act is expressed to be for the protection of the protected authority concerned.

34. Section 105 (For protection of E. Marriage & Son Ltd.) of the Act of 1956 shall be incorporated with and form part of this Act and shall extend and apply to the provisions of this Act or of any Act incorporated therewith as if the said section 105, with any necessary modifications, were re-enacted in this Act.

PART VI
—cont.

For protection
of E. Marriage
& Son Ltd.

35. Where under this Act any difference (other than a difference to which the provisions of the Lands Clauses Acts apply) is to be referred to or settled by arbitration, then, unless otherwise provided, such difference shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

Arbitration.

36.—(1) Nothing in this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown and in particular and without prejudice to the generality of the foregoing, nothing herein contained authorises the Company to take, use or in any manner interfere with any land or hereditaments or any rights of whatsoever description—

Crown rights.

(a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those Commissioners on behalf of Her Majesty first had and obtained for that purpose; or

(b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Nothing in this section shall prejudice or affect any statutory powers of the Company to carry out any works by reason only that such works involve or are likely to involve an alteration in any telegraphic line of the Postmaster General in relation to which paragraphs (1) to (8) of section 7 of the Telegraph Act, 1878, apply.

37. The provisions of the Town and Country Planning Act, 1962, and any restrictions or powers thereby imposed or conferred in relation to land shall apply and may be exercised in relation to any land notwithstanding that the development thereof is or may be authorised or regulated by or under this Act.

Saving for
town and
country
planning.

38.—(1) The amendments specified in the second column of Part I of the Fourth Schedule to this Act shall be made in the provisions of the Act of 1923 and of the Act of 1956 specified in the first column of the said Part.

Amendment
and repeal of
Acts of 1923
and 1956.

PART VI
—cont.

(2) The provisions of the Act of 1923 and of the Act of 1956 specified in the first column of Part II of the said schedule are hereby repealed to the extent specified in the second column of the said Part.

Costs of Act.

39. The costs, charges and expenses preliminary to and of and incidental to the applying for and the preparing, obtaining and passing of this Act shall be paid by the Company and may in whole or in part be defrayed out of revenue.

SCHEDULES

FIRST SCHEDULE

STATEMENT OF CAPITAL OF THE COMPANY

| Act | Authorised | Description of capital | Exercised |
|---------------------------------------|-----------------|---|-----------------|
| Felixstowe Dock and Railway Act, 1956 | £ 291,500 | Ordinary stock | £ 291,500 |
| | 334,500 | 6½ per cent. Redeemable Debentures 1982 | 253,000 |
| | | Mortgage | *78,476 |
| | <u>£626,000</u> | | <u>£622,976</u> |

* Amount outstanding on mortgage repayable by instalments.

SECOND SCHEDULE

LIMITS OF THE DOCK

1. An area bounded by an imaginary line commencing at the point on the sea wall at which latitude 51° 56' 50.75" north intersects longitude 1° 19' 12.00" east thence in an east-north-easterly direction along the northern boundary fence of the Felixstowe branch railway of British Railways to the point at which latitude 51° 57' 03.00" north intersects longitude 1° 20' 03.10" east, thence in a north-westerly direction to the point at which latitude 51° 57' 04.40" north intersects longitude 1° 20' 01.30" east, thence in a south-westerly direction along the centre line of the stream or ditch separating enclosure numbered 216 from enclosure numbered 189 to the point at which latitude 51° 56' 57.00" north intersects longitude 1° 19' 43.30" east, thence across Felixstowe Urban District Council's access road being enclosure numbered 213, and thence in a north-easterly direction along the boundary fence separating enclosure numbered 189 from enclosure numbered 190 to the point at which latitude 51° 57' 04.80" north intersects longitude 1° 19' 55.10" east, thence in a south-easterly direction along the centre line of the stream or ditch separating enclosure numbered 188 from enclosure numbered 187 to the point at which latitude 51° 57' 04.00" north intersects longitude 1° 19' 59.00" east, thence in a north-easterly direction along the western boundary of the Felixstowe Urban District Council's access road to the sewage pumping station to the point at which latitude 51° 57' 09.70" north intersects longitude 1° 20' 05.20" east, thence in a north-westerly direction along the southern boundary of Walton Avenue to the point at which latitude 51° 57' 28.12" north

2ND SCH.
—cont.

intersects longitude $1^{\circ} 19' 14.50''$ east, thence in a south-westerly direction along the centre line of the stream or ditch separating enclosure numbered 151 from enclosure numbered 152 to the point where latitude $51^{\circ} 57' 18.75''$ north intersects longitude $1^{\circ} 19' 06.00''$ east, thence along the landward side of the sea wall to the point at which latitude $51^{\circ} 57' 24.25''$ north intersects longitude $1^{\circ} 18' 58.50''$ east, thence in a south-westerly direction to the point at which latitude $51^{\circ} 57' 07.75''$ north intersects longitude $1^{\circ} 18' 31.25''$ east, thence in a south-easterly direction to the point at which latitude $51^{\circ} 56' 51.75''$ north intersects longitude $1^{\circ} 18' 51.50''$ east, thence in an easterly direction to the point at which latitude $51^{\circ} 56' 51.75''$ north intersects longitude $1^{\circ} 18' 58.50''$ east, thence in a south-south-easterly direction to the point at which latitude $51^{\circ} 56' 36.25''$ north intersects longitude $1^{\circ} 19' 07.50''$ east, thence in a south-easterly direction to the point at which latitude $51^{\circ} 56' 30.75''$ north intersects longitude $1^{\circ} 19' 19.25''$ east, thence in a north-north-westerly direction along the sea wall to and terminating at the point of commencement:

Provided that the said area shall be deemed not to include the area coloured red on the plan signed in duplicate by I. C. Trelawny on behalf of the Company and by Cyril E. Cooper on behalf of George Marcus Tomline Pretzman, one copy of which is deposited with the Company and the other with the said George Marcus Tomline Pretzman.

2. In this schedule references to the numbers of enclosures are references to the enclosures on the 1/2500 Ordnance Survey map (Edition of 1926) Suffolk (East) Sheet No. LXXXIX. 8.

THIRD SCHEDULE

DOCK TONNAGE RATES PAYABLE IN RESPECT OF EVERY VESSEL USING THE DOCK

1. Vessels entering or leaving the dock or berthing at or unberthing from the piers, quays and wharves:—

| | <i>Per Net Registered Ton</i> | |
|---|---------------------------------------|----|
| | s. | d. |
| (a) For every vessel other than vessels to which head (b) of this paragraph or paragraphs 2, 3 or 4 of this schedule apply, coming from or going to any of the undermentioned ports and places— | | |
| Any foreign port except any port or place on the coast of Europe bounded on the north by the river Elbe and on the south by the port of Brest | 6 | 0 |
| Any port or place on the coast of Europe within the area bounded on the north by the river Elbe and on the south by the port of Brest | 3 | 0 |
| Any port or place in the United Kingdom other than a port or place in the river Orwell or the river Stour | 3 | 0 |

3RD SCH.
—cont.

| | <i>Per Net Registered Ton</i> | |
|---|---------------------------------------|--|
| | s. d. | |
| Any port or place in the river Orwell or the river Stour | 1 6 | |
| (b) For every fishing vessel owned by a person at least 75 per cent. of whose income is derived from fishing .. | 1 0 | |
| 2. Any vessel to which heads (a) or (b) of the last foregoing paragraph apply which remains in the dock or at the piers, quays or wharves for a longer period than 7 days— for every day or part of a day | 0 3 | |

*3. Yachts or boats (powered and/or sail) not exceeding an overall length of 100 feet using the dock—

| Length overall excluding bowsprit and bumpkin | Not exceeding three days | | | Per week or part thereof exceeding three days | | | Per month or part thereof exceeding three weeks | | |
|---|--------------------------|----|----|---|----|----|---|----|----|
| | £ | s. | d. | £ | s. | d. | £ | s. | d. |
| Not exceeding 14 feet and having either a cabin or a fixed keel or not exceeding 18 feet but having neither a cabin nor a fixed keel | Nil | | | Nil | | | Nil | | |
| Exceeding 14 feet but not exceeding 18 feet and having a cabin or a fixed keel ... | 1 | 6 | | 3 | 0 | | 10 | 0 | |
| Exceeding 18 feet but not exceeding 25 feet | 3 | 0 | | 4 | 6 | | 15 | 0 | |
| Exceeding 25 feet but not exceeding 35 feet | 6 | 0 | | 9 | 0 | | 1 | 10 | 0 |
| Exceeding 35 feet but not exceeding 50 feet | 9 | 0 | | 13 | 6 | | 1 | 15 | 0 |
| Exceeding 50 feet but not exceeding 100 feet | 12 | 0 | | 18 | 0 | | 3 | 0 | 0 |

4. A hover vehicle using the dock, such reasonable rates as may be fixed by the Company with the consent of the Minister.

5. A vessel to which head (a) of paragraph 1 applies will be charged either the rate applicable to a vessel coming from a port or place, or that applicable to a vessel going to a port or place (whichever is the higher).

6. A vessel entering the dock or berthing at the piers, quays or wharves owing to stress of weather or a mechanical breakdown shall be charged half the rate which would otherwise be payable under this schedule.

*NOTE: Yachts or boats exceeding an overall length of 100 feet using the dock will be charged according to the rates payable under head (a) of paragraph 1 of this schedule.

FOURTH SCHEDULE

PART I

AMENDMENTS OF THE ACT OF 1923 AND THE ACT OF 1956

| Provisions amended | Amendment |
|---|--|
| Felixstowe Dock and Railway Act, 1923— Section 18 (Exemption from tolls in case of persons in service of Crown) | After the words "this Act" there shall be inserted the words "or the Felixstowe Dock and Railway Act 1963". |
| Felixstowe Dock and Railway Act, 1956— Section 4 (Interpretation) | In the definition of "the undertaking" the words "including the dock the railway and the new works" shall be omitted. |
| Section 47 (Rates) ... | In subsection (1) for the words "Parts 1 and 2" there shall be substituted the words "Part 2". |
| Section 67 (Payment of interest out of capital) | In subsection (1) after the words "under the authority of this Act" there shall be inserted the words "or of the Felixstowe Dock and Railway Act 1963", and for the words "the Felixstowe Dock and Railway Acts 1879 to 1923" there shall be substituted the words "the Felixstowe Dock and Railway Acts 1879 to 1963". In subsections (2) and (3) after the words "this Act" wherever those words occur there shall be inserted the words "or the Felixstowe Dock and Railway Act 1963". |
| Section 68 (Power to redeem perpetual debenture stock) | After the words "this Act" there shall be inserted the words "or of the Felixstowe Dock and Railway Acts 1879 to 1963". |
| Section 71 (Power to invest in associated companies) | In subsection (1) the words "and which is carried on in the urban district of Felixstowe" shall be omitted and after the words "lend money to" there shall be inserted the words "or guarantee the debts, liabilities or obligations of". |
| Section 72 (Minister to exclude certain transactions for purposes of section 6 of the Transport Charges &c. (Miscellaneous Provisions) Act, 1954) | For the words "or loan" in the first place where those words occur there shall be substituted the words "loan or payment under a guarantee" and for the words "and no such existing or contingent liabilities of the Company under either the said section 99 or the said section 100 of this Act" there shall be substituted the |

4TH SCH.
—cont.

| Provisions amended | Amendment |
|--|--|
| Felixstowe Dock and Railway Act, 1956— <i>cont.</i> | words “ no such existing liabilities under the said section 99 or the said section 100 and no such contingent liabilities under either of those sections or in respect of a guarantee under the said section 71 ”. |
| Section 79 (Proof of majority of votes) | After the word “ carried ” there shall be inserted the words “ or carried unanimously or by a particular majority or lost ”. |
| Section 87 (Authentication of contracts and notices) | In subsection (1) for the words “ and by the secretary ” there shall be substituted the words “ by the secretary ”. |
| Section 88 (Directors) ... | In subsection (1) for the word “ eight ” there shall be substituted the word “ ten ”. In subsection (5) for the word “ ten ” there shall be substituted the word “ five ”. |
| Section 90 (Additional directors) | In subsection (1) for the word “ eight ” there shall be substituted the word “ ten ”. |
| Section 98 (Auditors) .. | In subsection (3) for the word “ seven ” there shall be substituted the word “ five ”. |
| Section 101 (Byelaws) ... | After the words “ this Act ” there shall be inserted the words “ or of the Felixstowe Dock and Railway Act 1963 ”. |

PART II

PROVISIONS OF THE ACT OF 1923 AND THE ACT OF 1956
REPEALED

| Acts | Extent of repeal |
|---|---|
| Felixstowe Dock and Railway Act, 1923— Section 4 (Power to levy rates) ... | So much of that section as relates to Parts 1, 4, 5 and 6 of the First Schedule to the Act. |
| First Schedule | Parts 1, 4, 5 and 6. |
| Felixstowe Dock and Railway Act, 1956— | |
| Section 6 (Limits of dock) ... | Subsection (1). |
| Section 8 (Power to make works) ... | The whole section. |

4TH SCH.
—cont.

| Acts | Extent of repeal |
|--|--|
| Felixstowe Dock and Railway Act, 1956— <i>cont.</i> | |
| Section 9 (Subsidiary works) | The whole section. |
| Section 22 (Saving for Secretary of State for Air) | The whole section. |
| Section 23 (For protection of East Suffolk and Norfolk River Board and Felixstowe Urban District Council) | The whole section. |
| Section 27 (Power to lease warehouses, etc.) | Subsection (2). |
| Section 29 (Removal of sunk stranded or abandoned vessels) | The whole section. |
| Section 30 (As to vessels in which the Crown have an interest) | The whole section. |
| Section 38 (Power to acquire lands) ... | The whole section. |
| Section 48 (Company may charge for unloading warehousing, etc.) | The whole section. |
| Section 56 (Additional capital) ... | Subsection (3) and so much of subsection (1) as authorises the raising of capital by borrowing on mortgage of the undertaking or by the creation and issue of debenture stock. |
| Section 59 (Debenture stock) | The whole section. |
| Section 60 (Priority of principal moneys secured by existing mortgages) | The whole section. |
| Section 61 (Saving for certain redeemable debentures) | The whole section. |
| Section 66 (Company may incur tem- porary loans) | The whole section. |
| Section 106 (Saving for Mr. G. M. T. Pretyman) | The whole section. |
| First Schedule | The whole schedule. |
| Second Schedule | The whole schedule. |

Table of Statutes referred to in this Act

| Short title | Session and chapter |
|---|-----------------------------|
| Companies Clauses Consolidation Act, 1845 | 8 & 9 Vict. c. 16. |
| Lands Clauses Consolidation Act, 1845 .. | 8 & 9 Vict. c. 18. |
| Railways Clauses Consolidation Act, 1845 .. | 8 & 9 Vict. c. 20. |
| Harbours, Docks and Piers Clauses Act, 1847 | 10 & 11 Vict. c. 27. |
| Lands Clauses Consolidation Acts Amendment Act, 1860 | 23 & 24 Vict. c. 106. |
| Companies Clauses Act, 1863 | 26 & 27 Vict. c. 118. |
| Railway Companies Act, 1867 | 30 & 31 Vict. c. 127. |
| Telegraph Act, 1869 | 32 & 33 Vict. c. 73. |
| Felixstowe Railway and Pier Act, 1875 .. | 38 & 39 Vict. c. cxlv. |
| Telegraph Act, 1878 | 41 & 42 Vict. c. 76. |
| Felixstowe Dock and Railway Act, 1879 .. | 42 & 43 Vict. c. clxxvii. |
| Great Eastern and Felixstowe Railways Arrangement Act, 1887 | 50 & 51 Vict. c. lxxvii. |
| Merchant Shipping Act, 1894 | 57 & 58 Vict. c. 60. |
| Merchant Shipping Act, 1906 | 9 Edw. 7 c. 48. |
| Felixstowe Dock and Railway Act, 1923 .. | 13 & 14 Geo. 5 c. lxxx. |
| Public Health Act, 1936 | 26 Geo. 5 & 1 Edw. 8 c. 49. |
| Borrowing (Control and Guarantees) Act, 1946 | 9 & 10 Geo. 6 c. 58. |
| Lands Tribunal Act, 1949 | 12, 13 & 14 Geo. 6 c. 42. |
| Public Utilities Street Works Act, 1950 .. | 14 Geo. 6 c. 39. |
| Transport Charges &c. (Miscellaneous Provisions) Act, 1954 | 2 & 3 Eliz. 2 c. 64. |
| Felixstowe Dock and Railway Act, 1956 .. | 4 & 5 Eliz. 2 c. lxxxviii. |
| Land Compensation Act, 1961 | 9 & 10 Eliz. 2 c. 33. |
| Town and Country Planning Act, 1962 .. | 10 & 11 Eliz. 2 c. 38. |

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