



**CHAPTER clvi.**

An Act to empower the West Highland Railway Company to construct an Extension of their Railway from Banavie to Mallaig with a Pier and other works in connexion therewith and for other purposes. A.D. 1894.

[31st July 1894.]

**W**HEREAS by the West Highland Railway Act 1889 (in this Act called "the Act of 1889") the West Highland Railway Company (in this Act called "the Company") were incorporated with a share capital of five hundred and forty thousand pounds and with power to borrow one hundred and eighty thousand pounds on mortgage of their undertaking and were authorised to make and maintain certain railways in the counties of Dumbarton Perth Argyll and Inverness :

And whereas by the West Highland Railway Act 1890 (in this Act called "the Act of 1890") the Company were authorised to deviate certain portions of their authorised railways to construct certain new railways and works to raise additional share capital to the extent of fifty-one thousand pounds and to borrow further sums not exceeding in the whole seventeen thousand pounds :

And whereas the Company have raised capital to the extent of seven hundred and eighty-eight thousand pounds and are constructing the said railways :

And whereas the said railways when completed and opened for public traffic will with the railways of the North British Railway Company form a continuous line of railway from Banavie on the Caledonian Canal to Glasgow and other centres of distribution on or in direct communication with the system of that Company :

And whereas the making and maintaining of the railway hereinafter described being an extension of the authorised railway of the Company from Banavie to Mallaig on the West Coast of the county of Inverness with a pier at Mallaig and other works in

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connexion therewith also herein-after described will open up a district of the Western Highlands of Scotland now devoid of railway communication provide a harbour and fishery port in immediate proximity to the south-west coast of Skye and the neighbouring islands and be of benefit and advantage to the inhabitants of the said district and islands :

And whereas it is expedient that the Company should be authorised to raise additional capital for the purposes of this Act :

And whereas the authorised railways and works of the Company will when completed be worked by the North British Railway Company under and in terms of the agreement set forth in the Third Schedule to the North British Railway Act 1893 and it is expedient that that agreement should be extended so as to include and apply to the railway pier breakwater and works authorised by and the additional capital to be raised under this Act :

And whereas plans and sections showing the lines and levels of the railway pier breakwater and works authorised by this Act and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the principal sheriff clerk for the county of Inverness and are herein-after respectively referred to as the deposited plans sections and book of reference :

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

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

Short title.

1. This Act may be cited as the West Highland Railway Act 1894.

Incorporation of Acts.

2. The Lands Clauses Acts the Railways Clauses Consolidation (Scotland) Act 1845 and Part I. (relating to construction of a railway) and Part III. (relating to working agreements) of the Railways Clauses Act 1863 the Harbours Docks and Piers Clauses Act 1847 except sections twenty-five and twenty-six and except the provisions thereof with respect to lifeboats and with respect to keeping a tide and weather gauge are unless the Board of Trade shall otherwise require and except where expressly varied by this Act incorporated with and form part of this Act.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction. The expressions "the railway" "the pier" "the breakwater" "the undertaking" mean respectively the railway pier breakwater and other works by this Act authorised and the undertaking of the Company as the case may be.

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Interpreta-  
tion.

4. Subject to the provisions of this Act the Company may make and maintain in the lines and according to the levels shown on the deposited plans and sections the railway pier and breakwater herein-after described with all proper stations junctions sidings roads approaches bridges viaducts shipping and landing places jetties quays wharves walls embankments engines machinery cranes hoists dolphins buoys moorings beacons lights lighthouses warehouses sheds and other buildings works and conveniences connected therewith respectively and 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 that purpose. The railway pier breakwater and other works herein-before referred to and authorised by this Act will be situate in the county of Inverness and are—

Power to  
make rail-  
way pier  
and break-  
water.

(1) A railway thirty-nine miles five furlongs three decimal fifty chains in length commencing in the parish of Kilmallie and county of Inverness by a junction with the Railway No. 5 authorised by the Act of 1890 at a point five hundred and fifty yards or thereabouts measured in a southerly direction from the centre of the bridge carrying the public road from Corpach to Fort William over the Caledonian Canal and terminating in the parish of Glenelg and county of Inverness at a point ninety-three yards or thereabouts measured in a northerly direction from the north end of the existing pier in Mallaig Harbour :

(2) A pier to be situate in the parish of Glenelg in the county of Inverness and on the foreshore and bed of Mallaig Harbour in or ex adverso of that parish commencing at the point herein-before described as the termination of the intended railway thence proceeding in a north-easterly and then in a northerly direction for a distance of two hundred and five yards or thereabouts in all and terminating in Mallaig Harbour :

(3) A breakwater to be situate in the parish of Glenelg in the county of Inverness and on the foreshore and bed of the Sound of Sleat in or ex adverso of that parish commencing at a point

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two hundred and twenty yards or thereabouts measured in a north-westerly direction from the north end of the existing pier in Mallaig Harbour thence proceeding in a north-easterly direction for a distance of four hundred and ninety-four yards or thereabouts and terminating at the entrance to Mallaig Harbour.

Power to take easements &c. by agreement.

5. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any easement servitude right or privilege (not being an easement servitude right or privilege of water in which other than parties to the agreement have an interest) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and feu duties and ground annuals so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements servitudes rights and privileges as aforesaid respectively.

Lands for extra-ordinary purposes.

6. The quantity of land to be taken by the Company by agreement for the extraordinary purposes mentioned in the Railways Clauses Consolidation (Scotland) Act 1845 for the purposes of this Act shall not exceed fifteen acres but nothing in that Act or in this Act shall exempt the Company from any indictment action or other proceeding for nuisance in the event of any nuisance being caused by them upon any land so taken.

Period for compulsory purchase of lands.

7. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

For protection of the Caledonian Canal.

8. For protection of the Caledonian Canal and the traffic thereon the following provisions shall have effect subject to any alterations thereof which may be hereafter agreed upon between the Company and the Commissioners of the Caledonian Canal (herein-after called "the Commissioners") (that is to say):—

(1.) The bridge to be constructed for carrying the proposed railway over the Caledonian Canal at Banavie shall be so placed as to leave a clear space of not less than two hundred feet between the north or upper side of the same and the lower gates of Banavie locks and shall be so constructed as to have an opening span or arch sufficient to leave a clear waterway of forty-five feet in width in addition to the towing-paths to be made through the bridge as herein-after provided and the piers or abutments of the said bridge shall be placed parallel with the centre line of the channel at the point of crossing and subject thereto the said bridge shall be erected and built in such



manner as shall be agreed and determined upon by and between the respective engineers for the time being of the Commissioners and the Company or in the event of disagreement between the said engineers in such manner as shall be directed and determined by a third engineer (not interested in the matter in difference) as the engineers for the time being of the Commissioners and the Company respectively shall appoint as oversman whose decision order and direction as to all matters in difference shall be binding final and conclusive on all parties concerned Provided always that in the event of such difference as aforesaid between the engineer for the time being of the Commissioners and the engineer of the Company it shall not be lawful for the Company to erect or cause to be erected any part of the said bridge so intended to be built over the said canal until the final decision order and direction upon the matter in difference shall have been duly made by the said oversman provided such decision be not delayed beyond three months after such oversman shall have been appointed and fully instructed by the said engineers and after the completion of the said bridge it shall not be lawful for the Company at any time to make any alteration in the structure thereof so as to contract or obstruct the waterway or the towing-paths through the bridge without the consent of the Commissioners first had and obtained :

- (2.) The said bridge shall at all times when required be opened by some person or persons appointed expressly for that purpose by and at the expense of the Company in such manner that vessels shall not be interrupted or delayed in passing the said bridge and no vessel shall be delayed at the said bridge for the passing of any train which shall not at the time have started from the proposed station at Banavie or have passed within distance signals to be erected not more than eight hundred yards from either end of said bridge and such byelaws as the Company may desire to make for the working of the said bridge shall be submitted for approval to the secretary and resident engineer for the time being of the Commissioners and from sunset to sunrise a sufficient light shall be hung out and exhibited and kept burning by and at the expense of the Company in a conspicuous situation on the lower or southern side of the opening span or arch of the said bridge in such place and in such manner as the said engineers or in case of difference their oversman to be appointed in manner aforesaid shall find to be most convenient and best adapted for guiding vessels through the said bridge and indicating when the said

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bridge is open and when shut and for insuring the safe navigation of vessels on the said canal near the said bridge :

- (3.) The Company may and shall when required by the Commissioners set up and erect a sufficient number of mooring posts and checking hooks or rings on each bank of the said canal below and above the said bridge for the convenience of vessels navigating on the said canal to the distance of one hundred yards below the said bridge and above from the said bridge up to the wings of the said lock and may and shall from time to time repair and keep in repair the said mooring posts hooks and rings and as occasion may require shall set up and erect new mooring posts hooks and rings in lieu of such as shall be worn or become useless :
- (4.) The Company may and shall at their own expense make and when made shall for ever maintain proper convenient and sufficient hauling-paths on each side of the said canal for the drawing and hauling of vessels with men horses or otherwise to and through the said bridge as well up as down the canal and shall remove all obstructions which do or may prevent the same which hauling paths respectively shall begin at the distance of fifty yards below the said bridge and extend from thence through the bridge and up to where they will join with the wings of the said lock and no person shall afterwards erect any building nor do any other act which may prevent the free use of such hauling-paths for the purpose of assisting vessels in approaching and passing through the said bridge and the Company may and shall provide proper and sufficient level crossings on each bank of the canal of a width of not less than twelve feet between the gate posts and the Company may and shall at their own expense maintain in good order in all time such portions of the canal banks and channel as shall lie within the north and south ends of the hauling-paths to be made as aforesaid and also the masonry of the wings of the lower lock in so far as they shall be covered by or with the north ends of said hauling-paths :
- (5.) The Company shall pay to the Commissioners an annual rent at the rate of fifteen pounds sterling for such portions of the lands belonging to the Commissioners as may be occupied by the said bridge and its appurtenances or taken by the Company under the powers of this Act and shall also pay to the Commissioners such compensation as may be agreed upon for loss of traffic if any which may arise from any obstruction of the said canal during and by reason of the construction of or

accident to or any failure in the said bridge and hauling-paths or failing agreement as shall be determined by arbitration in manner provided by the Railways Clauses Consolidation (Scotland) Act 1845 for the settlement of disputes by arbitration.

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9. In altering for the purposes of this Act the road next hereinafter mentioned the Company may make the same of any inclination not steeper than the inclination herein-after mentioned (that is to say) :—

Inclination of road.

Mileage.	No. on Deposited Plan.	Parish.	Description of Road.	Intended Inclination.
Mls. fur. chs. 28 2 6	66	Ardnamurchan	Public -	1 in 15

10. Subject to the provisions in the Railways Clauses Consolidation (Scotland) Act 1845 and in Part I. (relating to the construction of a railway) of the Railways Clauses Act 1863 contained in reference to the crossing of roads on the level the Company may in the construction of the railway carry the same with a single line only whilst the railway shall consist of a single line and afterwards with a double line only across and on the level of the roads next herein-after mentioned (that is to say) :—

Power to cross certain roads on the level.

Mileage.	No. on Deposited Plan.	Parish.	Description of Road.
Mls. fur. chs. 0 1 9	5	Kilmallie	- Public.
36 6 9½	5	Glenelg -	- Public.

Provided that in the case of the road first above-mentioned the gradient of the railway on the west side of the crossing shall notwithstanding anything in section fourteen of the Railways Clauses Consolidation (Scotland) Act 1845 contained be diminished from one in sixty to one in ninety and the crossing made visible at a distance of ten chains west therefrom.

11. The Company may divert the public highway next hereinafter mentioned in the manner shown upon the deposited plans and sections and when and as the new portion of road is made to the satisfaction of two justices and is open for public use may stop up and cause to be discontinued as a road so much of the existing

Power to divert road as shown on deposited plans.

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Mileage.			Parish.	No. of Road on Plan.
Mls.	fur.	chs.	Glenelg - - -	22
37	5	0		

And when and so soon as the said road is so stopped up all rights of way over the same shall cease and the Company may subject to the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 with respect to mines lying under or near to the railway appropriate and use for the purposes of their undertaking the site of the road stopped up as far as the same is bounded on both sides by lands of the Company and such new portion of road shall as respects management and maintenance and in all other respects be deemed to be part of and be subject to the same provisions as the existing road or portion of road for which the same is substituted Provided always that where any such new portion of road is formed through or along lands belonging wholly or partly to any person through or along whose lands the superseded portion of existing road passes the value of the site of so much of the said superseded portion of road as passes through or along the lands of such owner and is given up to him shall be taken into account in estimating the compensation payable to him for the land taken from him for such new portion of road.

Height and span of bridges.

12. The Company may make the arches of the bridges for carrying the railway over the roads next herein-after mentioned of any heights and spans not less than the heights and spans herein-after mentioned in connexion therewith respectively (that is to say) :—

Mileage.			No. on Deposited Plan.	Parish.	Description of Road.	Height.	Span.
Mls.	fur.	chs.				Feet.	Feet.
10	2	0 $\frac{1}{3}$	120	Kilmallie - -	Public -	14	15
12	1	6 $\frac{1}{4}$	125	Kilmallie - -	Public -	15	20
24	1	7 $\frac{1}{2}$	38	Ardnamurchan -	Public -	15	20
24	2	6 $\frac{1}{2}$	38	Ardnamurchan -	Public -	15	20
25	1	2 $\frac{1}{4}$	38	Ardnamurchan -	Public -	15	20
27	0	7 $\frac{1}{4}$	66	Ardnamurchan -	Public -	15	20
28	2	6	66	Ardnamurchan -	Public -	15	20
28	7	4	66	Ardnamurchan -	Public -	15	20
36	2	8 $\frac{1}{4}$	115	Ardnamurchan -	Public -	15	20
36	3	0 $\frac{1}{4}$	2	Glenelg - -	Public -	15	20



13. The Company may make the roadway over the bridge by which the following road will be carried over the railway of such width between the fences thereof as the Company may think fit not being less than the width herein-after mentioned (that is to say) :—

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Width of certain roadway.

Mileage.	No. on Plan.	Parish.	Description of Roadway.	Width of Roadway.
Mls. fur. chs. 15 0 1½	21	Ardnamurchan -	Public -	20

14. The Company may contribute towards the cost of constructing a road from Kinlochmoidart Pier to Kinlochailort such sum not exceeding three thousand pounds as the Company may think fit Provided that no such contribution shall be made by the Company unless the said road be constructed in the line between the points A and B shown upon the Ordnance Survey maps signed in duplicate by Alexander Simpson civil engineer Glasgow and Ralph Dundas Clerk to the Signet Edinburgh and docquetted as relative hereto.

Contribution to cost of certain road.

15. The Company notwithstanding the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 incorporated with this Act may deviate from the lines of the railway authorised by this Act as delineated on the deposited plans thereof to any extent within the limits of deviation shown on those plans and may deviate from the levels of the railway as delineated on the deposited sections thereof to any extent upwards or downwards as may be agreed upon in writing with the owners of any lands through which and with the owners lessees and occupiers of any house affected by or through the curtilage of which such deviations are intended to be made and may increase any inclination or gradient of the railway shown on the deposited sections thereof as not steeper than one in forty-eight to such an extent as they may see fit provided that such inclinations or gradients where so increased be not steeper than one in forty-eight and they may diminish the radius of any curve described on the deposited plans of the railway to any extent which shall leave a radius of not less than one furlong.

Powers of lateral and vertical deviation and of altering gradients and curves of railway.

16. In making the pier and breakwater the Company may deviate laterally to any extent not exceeding the limits of deviation delineated on the deposited plans and vertically to any extent not exceeding five feet in the case of the pier and ten feet in the case of the breakwater Provided that no deviation either lateral or vertical below high-water mark shall be made without the consent in writing of the Board of Trade.

Power to deviate in construction of pier &c.

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Restriction  
on taking  
houses of  
labouring  
class.

17. The Company shall not under the powers of this Act purchase or acquire in any district within the meaning of the Public Health (Scotland) Act 1867 ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Secretary for Scotland ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

For the purposes of this section the expression "labouring class" means and includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

Power to  
limited  
owners to  
take shares  
for land.

18. Subject to the provisions herein-after contained it shall be lawful for any limited owner named in the First Schedule to this Act of any lands shown on the deposited plans and described in the deposited book of reference required by the Company for the purposes of this Act to agree with the Company that the consideration to be paid for the same and the compensation (if any) to be paid for any permanent damage or injury to any such lands shall be wholly or in part the allotment or transfer to such limited owner of such number of shares in the capital of the Company as shall be agreed upon between such owner and the Company :—

(1.) For the purposes of this section the expression "limited owner" includes any person or corporation empowered under the seventh section of the Lands Clauses Consolidation (Scotland) Act 1845 to sell convey and dispose of lands or any estate or interest therein to the Promoters of the undertaking :

(2.) All shares issued pursuant to this section to any limited owner shall be deemed to be fully paid up shares in the capital of the Company and the names of the holders thereof respectively shall be registered as such in the register of shareholders and such issue and registration shall for the purposes of sections seventy-four seventy-five and seventy-six of the Lands Clauses Consolidation (Scotland) Act 1845 be deemed equivalent to and have the same effect as the deposit in the bank of the purchase money or compensation :

(3.) All shares issued pursuant to this section to any limited owner shall be held upon the like uses and trusts and for the same purposes and in the same manner as the lands in consideration for which such shares are issued stood settled or were subject

immediately before the conveyance of such lands to the Company and as if such shares were an investment of purchase money or compensation duly authorised by section sixty-eight of the Lands Clauses Consolidation (Scotland) Act 1845 :

(4.) The Company shall make an entry in their register of shareholders to the effect that the said shares are subject to such uses trusts and purposes as aforesaid and subject to the uses trusts and purposes affecting such shares the limited owner in respect thereof shall have all the other rights and powers of a shareholder of the Company :

(5.) The Company shall not be bound to see to the application of any dividend payable to a limited owner or be in any way responsible with respect to the application thereof.

19. It shall be lawful for any limited owner named in the First Schedule to this Act whose land the Company are authorised to take for the purposes of their undertaking to grant convey dispose or dispose of the same or any portion thereof to the Company free of cost to the Company and without consideration other than the construction of the railway.

Power to limited owners to convey lands free of charge in certain cases.

20. Whereas pursuant to the standing orders of both Houses of Parliament and the Parliamentary Deposits Act 1846 a sum of fifteen thousand nine hundred and two pounds seventeen shillings and sixpence being five per centum upon the amount of the estimate in respect of the railway by this Act authorised herein-after referred to as "the deposit fund" and a sum of one thousand eight hundred pounds being four per centum upon the amount of the estimate in respect of the pier and breakwater (herein-after referred to as "the pier deposit fund") by this Act authorised have been deposited with the Queen's and Lord Treasurer's Remembrancer on behalf of the Court of Exchequer in Scotland in respect of the application to Parliament for this Act Be it enacted that notwithstanding anything contained in the said Act the deposit fund shall not be paid or transferred to or on the application of the person or persons or the majority of the persons named in the warrant or order issued in pursuance of the said Act or the survivors or survivor of them (which persons survivors or survivor are or is in this Act referred to as "the depositors") unless the Company shall previously to the expiration of the period limited by this Act for completion of the railway open the same for the public conveyance of passengers and if the Company shall make default in so opening the railway the deposit fund shall be applicable and shall be applied as provided by the next following section Provided that if within such period as

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aforesaid the Company open any portion of the railway for the public conveyance of passengers then on the production of a certificate of the Board of Trade specifying the length of the portion of the railway opened as aforesaid and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the railway so opened bears to the entire length of the railway the Court shall on the application of the depositors or the majority of them order the portion of the deposit fund specified in the certificate to be paid or transferred to them or as they shall direct and the certificate of the Board of Trade shall be sufficient evidence of the facts therein certified and it shall not be necessary to produce any certificate of this Act having passed anything in the above-mentioned Act to the contrary notwithstanding.

Application  
of deposit.

**21.** If the Company do not previously to the expiration of the period limited for the completion of the railway complete and open the same for the public conveyance of passengers then and in every such case the deposit fund or so much thereof as shall not have been paid to the depositors shall be applicable and after due notice in the *Edinburgh Gazette* shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railway or any portion thereof or who have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act and for which injury or loss no compensation or inadequate compensation has been paid and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Court of Exchequer in Scotland may seem fit and if no such compensation is payable or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation then the deposit fund or such portion thereof as may not be required as aforesaid shall if a judicial factor has been appointed or the Company is insolvent or the railway has been abandoned be paid or transferred wholly or in part to such judicial factor or be applied in the discretion of the Court as part of the assets of the Company for the benefit of the creditors thereof and subject to such application shall be repaid or re-transferred to the depositors. Provided that until the deposit fund has been repaid to the depositors or has become otherwise applicable as herein-before mentioned any interest or dividends accruing thereon shall from time to time and as often as the same shall become payable be paid to or on the application of the depositors.



**22.** On the application of the depositors or of the majority of them or of the executors or administrators of the last survivor of them at any time after the passing of this Act the Court of Exchequer in Scotland or in time of vacation the Lord Ordinary officiating on the Bills in the Court of Session in Scotland may order that the pier deposit fund and the interest and dividends thereon shall be paid to them or him or to any person or persons whom they or he may appoint in that behalf.

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Repayment  
of part of  
deposit  
money.

**23.** If the railway is not completed within five years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for making and completing the railway or otherwise in relation thereto shall cease except as to so much thereof as is then completed. Provided that the Company shall construct and complete the railway and works so far as the same are intended to pass through the estate of Inverailort within a period of two years and six months from the date of breaking ground on the said estate.

Period for  
completion  
of railway.

**24.** If the pier and breakwater are not completed within seven years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for making and completing the pier and breakwater or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Period for  
completion  
of pier and  
breakwater.

**25.** Subject to the provisions of this Act the railway shall for the purposes of tolls rates and charges form part of the authorised railways of the Company and shall with the pier and breakwater be and be deemed to be for all other purposes part of the railways and works of the Company.

Railway pier  
and break-  
water to be  
part of  
Company's  
under-  
taking.

**26.** The classification of merchandise traffic including perishable merchandise exceeding fifty-six pounds in weight by passenger train and the schedule of maximum rates and charges applicable thereto and the regulations and provisions contained in the schedule to the Railway Rates and Charges No. 25 (North British Railway &c.) Order 1892 (which order is scheduled to and confirmed by the Railway Rates and Charges No. 25 (North British Railway &c.) Order Confirmation Act 1892) shall be applicable and apply to the Company as if it were one of the railway companies named in the appendix to the schedule to the Order confirmed by the said Act.

Maximum  
rates for  
merchandise.

**27.** The Company may demand levy and recover in respect of every ship vessel steamboat sailing or other craft using the pier and of all passengers goods merchandise fish animals and other articles matters and things loaded or unloaded at the pier any sums not

Power to  
levy rates  
for use of  
pier.



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Rates may be levied though works not completed.

**28.** When and so soon as it shall from time to time be certified under the hand of an officer to be appointed by the Board of Trade for that purpose and paid by the Company that the Company have constructed and so far completed any portion of the pier and other works connected therewith as to afford convenient accommodation for the reception loading or unloading of vessels it shall be lawful for the Company although the whole of the pier and works shall not then have been completed from time to time to take or receive such of the tolls rates duties and charges or such proportion of all or any of the tolls rates duties and charges authorised by this Act as shall in the opinion of the Board of Trade be commensurate with the accommodation afforded.

Rates to be charged for use of warehouses cranes and weighing machines at Mallaig.

**29.** The Company may demand for the use of any of their warehouses sheds wharves cranes and weighing machines at Mallaig of and from the owner or person having the charge of the goods deposited therein or loaded unloaded or weighed by means thereof such reasonable rates as the Company shall from time to time appoint not exceeding the several rates in the Third Schedule to this Act annexed.

Meters weighers &c.

**30.** The Company shall have the appointment of meters weighers and other officers and servants at the pier.

Provisions of Railways Clauses Consolidation (Scotland) Act 1845 extended to pier &c. rates.

**31.** The sections of the Railways Clauses Consolidation (Scotland) Act 1845 numbered respectively eighty-three eighty-five eighty-six and eighty-nine to ninety-five shall extend and apply to the rates and dues for the pier as fully and effectually as to the tolls on the railway and for this purpose in construing those sections the word "toll" shall be deemed to include the rates and dues the expression "the railway" shall include the pier the word "goods" shall include animals commodities matters and things and the section numbered ninety-four shall extend to the owner of or person having the charge of any animals goods commodities matters or things liable to those rates and dues.

Limits of pier.

**32.** The limits within which the powers of any pier-master appointed by the Company for the purposes of this Act may be exercised shall be the pier and breakwater by this Act authorised and the works and conveniences connected therewith the area of

Mallaig Harbour up to high-water mark southward of a line drawn in a north-easterly direction from the northern extremity of the breakwater to White Point and the seaward area up to high-water mark included within a radius of six hundred yards from the said northern extremity of the breakwater.

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**33.** If at any time the Board of Trade deems it expedient for the purposes of this Act to order a survey and examination of a work constructed by the Company under the powers of this Act on in over through or across tidal lands or tidal water or of the intended site of any such work the Company shall defray the expense of the survey and examination and the amount thereof shall be a debt due from the Company to the Crown and be recoverable accordingly with costs or the same may be recovered with costs as a penalty is recoverable from the Company.

Survey of works by Board of Trade.

**34.** If a work constructed by the Company under the powers of this Act on in over through or across tidal lands or tidal water is abandoned or suffered to fall into decay the Board of Trade may abate and remove the work or any part of it and restore the site thereof to its former condition at the expense of the Company and the amount of such expense shall be a debt due from the Company to the Crown and be recoverable accordingly with costs or the same may be recovered with costs as a penalty is recoverable from the Company.

Abatement of work abandoned or decayed.

**35.** The Company shall on or near the works below high-water mark hereby authorised during the whole time of the constructing altering or extending the same exhibit and keep burning at their own expense every night from sunset to sunrise such lights (if any) as the Board of Trade from time to time require or approve.

Lights on works during construction.

If the Company fail to comply in any respect with the provisions of this section they shall for each night in which they so fail be liable to a penalty not exceeding twenty pounds.

**36.** The Company shall at the outer extremity of their works below high water exhibit and keep burning from sunset to sunrise such lights (if any) as the Commissioners of Northern Lighthouses shall from time to time direct.

Company to exhibit lights.

If the Company fail to comply in any respect with the provisions of the present section they shall for each night in which they so fail be liable to a penalty not exceeding twenty pounds.

**37.** In case of injury to or destruction or decay of the pier or works or any part thereof the Company shall lay down such buoys exhibit such lights or take such other means for preventing so far as

Provision against danger to navigation.

A.D. 1894.

may be danger to navigation as shall from time to time be directed by the Commissioners of Northern Lighthouses and shall apply to those Commissioners for directions as to the means to be taken and the Company shall be liable to a penalty not exceeding ten pounds for every calendar month during which they omit so to apply or refuse or neglect to obey any direction given in reference to the means to be taken.

Power to apply corporate funds to purposes of Act.

**38.** The Company may apply to the purposes of this Act to which capital is properly applicable any moneys which they now have in their hands or which they have power to raise by shares or mortgage or debenture stock by virtue of any Acts relating to the Company and which may not be required for the purposes to which they are by any such Acts made specially applicable.

Power to the Company to raise additional capital.

**39.** The Company may from time to time raise any additional capital not exceeding in the whole two hundred and sixty thousand pounds by the issue at their option of new ordinary shares or new preference shares or wholly or partially by either or both of those modes and the clauses and provisions of the Companies Clauses Consolidation (Scotland) Act 1845 with respect to the following matters (that is to say) :—

The distribution of the capital of the Company into shares ;

The transfer or transmission of shares ;

The payment of subscriptions and the means of enforcing the payment of calls ;

The forfeiture of shares for non-payment of calls ;

The remedies of creditors of the Company against the shareholders ;

The borrowing of money by the Company on mortgage or bond ;

The conversion of borrowed money into capital ;

The consolidation of the shares into stock ;

The general meetings of the Company and the exercise of the right of voting by the shareholders ;

The making of dividends ;

The giving of notices ; and

The provision to be made for affording access to the special Act by all parties interested :

Part I. (relating to the cancellation and surrender of shares) and Part II. (relating to additional capital) of the Companies Clauses Act 1863 shall extend and apply to the Company and to the additional capital which they are by this Act authorised to raise.

Shares not to be issued till one-fifth part thereof shall have been paid.

**40.** The Company shall not issue any share created under the authority of this Act of less nominal value than ten pounds nor shall any share vest in the person accepting the same unless and

until a sum not being less than one fifth of the amount of such share is paid in respect thereof. A.D. 1894.

41. If any money is payable to a shareholder or mortgagee or debenture stock holder being a minor idiot or lunatic the receipt of his tutor or curator or curator bonis shall be a sufficient discharge to the Company. Receipt in case of persons not sui juris.

42. The provisions of section eight and of sections ten to seventeen of the Act of 1889 shall extend and apply to and in the case of any ordinary shares created by the Company under the powers of this Act. Certain sections of Act of 1889 to apply to new shares.

43. Except as by this Act otherwise provided the capital in new shares created by the Company under this Act and the new shares therein and the holders thereof respectively shall be subject and entitled to the same powers provisions liabilities rights privileges and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description and the new shares were shares in that capital The capital in new shares so created shall form part of the capital of the Company. New shares to be subject to the same incidents as other shares.

44. Every person who becomes entitled to new shares shall in respect of the same be a holder of shares in the Company and shall be entitled to a dividend with the other holders of shares of the same class or description proportioned to the whole amount from time to time called and paid on such new shares. Dividends on shares.

45. Except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any new shares to which a preferential dividend shall be assigned. Restriction as to votes in respect of preferential shares.

46. The Company may in respect of the additional capital of two hundred and sixty thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage of the undertaking any sum not exceeding in the whole one hundred and twenty-eight thousand pounds but no part thereof shall be borrowed until the whole of the additional capital of two hundred and sixty thousand pounds is issued and accepted and one half thereof is paid up and the Company have proved to the sheriff who is to certify under the forty-second section of the Companies Clauses Consolidation (Scotland) Act 1845 before he so certifies that the whole of such capital has been issued and accepted and that one half thereof has been paid up and that not less than one fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance

Power to borrow.



A.D. 1894. thereof and that such shares were issued bonâ fide and are held by the persons or corporations to whom the same were issued or their executors administrators successors or assignees and that such persons or corporations their executors administrators successors or assignees are legally liable for the same and upon production to such sheriff of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

For appointment of a judicial factor.

47. Every provision in any Act passed before the present session of Parliament whereby the Company is authorised to raise money by borrowing for the purposes of their undertaking with respect to the appointment of a judicial factor for enforcing payment by the Company of arrears of principal or interest or principal and interest shall be and the same is hereby repealed but without prejudice to any appointment which has been made or to the continuance of any proceedings which have been commenced prior to the passing of this Act under such provision. The mortgagees of the undertaking may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a judicial factor. In order to authorise the appointment of a judicial factor in respect of arrears of principal the amount owing to the mortgagees by whom the application for a judicial factor is made shall not be less than ten thousand pounds in the whole.

Debenture stock.

48. The Company may raise all or any part of the money which they are by this Act authorised to raise on mortgage by the creation and issue of debenture stock subject to the provisions of section twenty of the Act of 1889. Notice of the effect of that enactment shall be endorsed on all mortgages and certificates of debenture stock.

Priority of principal moneys secured by existing mortgages.

49. The principal moneys secured by all mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act and subsisting at the passing hereof shall during the continuance of such mortgages have priority over the principal moneys secured by any mortgages granted by virtue of this Act.

Application of moneys.

50. All moneys raised under this Act whether by shares debenture stock or borrowing shall be applied for the purposes of this Act and for the general purposes of the undertaking of the Company to which capital is properly applicable.

Agreements with Treasury.

51. In the event of the Treasury being authorised to guarantee the payment of interest or dividend on the whole or any portion of



the share and loan capital to be raised under this Act and to grant any sum or sums of money towards the cost of constructing the pier breakwater and other works by this Act authorised the Company may enter into and fulfil agreements with the Treasury with respect to such guarantee and grant and may accept and comply with such conditions and obligations as the Treasury may attach thereto provided that such conditions and obligations do not diminish the security of any mortgages or debenture stock granted or issued by the Company before the date of such agreement.

A.D. 1894.

**52.** In the event of the Treasury being authorised to guarantee and guaranteeing for a period of thirty years from the date of the opening for passenger traffic of the railway by this Act authorised the payment of interest or dividend at the rate of three pounds per centum per annum on two hundred and sixty thousand pounds of the share and loan capital to be raised under this Act and granting a sum of thirty thousand pounds towards the cost of constructing the pier breakwater and other works by this Act authorised sections forty-one and forty-three of the North British Railway Act 1893 and the agreement set forth in the Third Schedule to that Act except Article Seventh thereof shall be held to extend to and include the railway pier breakwater and works by this Act authorised and if the net revenue accruing to the Company from the said railway pier breakwater and works after payment of the items included in Article Sixth of the said Agreement is not along with the interest or dividend to be received by the Company from the Treasury sufficient in any half year to pay interest or dividend for such half year at the rate of three pounds per centum per annum on the whole paid up share and loan capital of the Company to be raised under this Act the North British Railway Company shall contribute such sum as may be necessary to make up interest or dividend at that rate upon the paid up share and loan capital of the Company and may undertake to contribute such additional sum as may be necessary to make up such interest or dividend to the rate of three pounds ten shillings per centum per annum and the whole surplus if any of the net revenues of the Company after payment of such interest or dividend at either of the rates aforesaid shall belong and be paid to the North British Railway Company.

Extending working agreement with North British Railway Company.

**53.** Notwithstanding anything in this Act or in any Act or Acts incorporated herewith contained it shall be lawful for the Company in addition to the said sum of two hundred and sixty thousand pounds additional capital to raise as part of such capital any further sum or sums not exceeding twelve thousand pounds for the purpose of paying and thereout to pay interest at such rate not exceeding

Power to pay interest out of capital during construction.

A.D. 1894.

three and a half pounds per centum per annum as the directors may determine to any shareholder on the amount from time to time paid up on the shares held by him in such additional capital from the respective times of such payments until the expiration of the time limited by this Act for the completion of the works by this Act authorised or such less period as the directors may determine but subject always to the conditions herein-after stated (that is to say) :—

- (A) No such interest shall begin to accrue until the Company shall have obtained a certificate from the Board of Trade that two thirds at least of the additional share capital authorised by this Act has been actually issued and accepted and is held by shareholders who or whose executors administrators or assigns are legally liable for the same ;
- (B) No such interest shall accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear ;
- (C) The amount so paid for interest shall not be deemed share capital in respect of which the borrowing powers of the Company may be exercised ;
- (D) Notice that the Company has power so to pay interest out of capital shall be given in every prospectus advertisement or other document of the Company inviting subscriptions for shares in such additional capital and in every certificate of shares ;
- (E) The accounts of the Company shall show the amount of capital on which and the rate at which interest has been paid in pursuance of this section :

Save as herein-before and in section seventy-two of the Act of 1889 and in section forty-nine of the Act of 1890 set forth no interest or dividend shall be paid out of any share or loan capital which the Company are by this Act authorised to raise to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation (Scotland) Act 1845.

Repeal of  
section 22 of  
the Act of  
1889.

54. Section twenty-two of the Act of 1889 is hereby repealed and in lieu thereof it is hereby enacted as follows :—

The ordinary meetings of the Company shall be held twice in every year in the months of February and August or in such other months as the directors may from time to time appoint.

55. From and after the passing of this Act the quorum of a general meeting of the Company shall be shareholders holding in the aggregate not less than one twentieth of the capital of the Company.

A.D. 1894.

Quorum of general meeting of Company.

56. The Company shall not under the powers of this Act construct on the shores of the sea or of any creek bay arm of the sea or navigable river communicating therewith where and so far up the same as the tide flows and reflows any work without the previous consent of the Board of Trade to be signified in writing under the hand of one of the Secretaries or Assistant Secretaries of the Board of Trade and then only according to such plan and under such restrictions and regulations as the Board of Trade may approve such approval being signified as last aforesaid and where any such work may have been constructed the Company shall not at any time alter or extend the same without obtaining previously to making any such alteration or extension the like consents or approvals. If any such work be commenced or completed contrary to the provisions of this Act the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the costs and charges of the Company and the amount of such costs and charges shall be a debt due from the Company to the Crown and shall be recoverable accordingly with costs.

Works below high-water mark not to be commenced without consent of Board of Trade.

57. The plans of the harbour works at Mallaig shall be submitted both to the Treasury and the Board of Trade and no part of the said harbour works shall be commenced and no powers of this Act in relation thereto shall be exercised until such plans shall have received the approval of both departments and the said works shall be carried out in all respects in accordance with the plans so approved.

Approval of harbour works by Treasury and Board of Trade.

58. Nothing contained in this Act shall authorise the Company to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any right in respect thereof belonging to the Queen's most Excellent Majesty in right of Her Crown and under the management of the Board of Trade without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give) neither shall anything in this Act contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exercisable by the Queen's Majesty Her heirs or successors.

Saving rights of the Crown in the fore-shore.

59. The Company shall not out of any money which they are by this Act authorised to raise pay or deposit any sum which by any

Deposits for future Bills not to be paid out of capital.

A.D. 1894. — standing order of either House of Parliament now or hereafter in force may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any other railway or to execute any other work or undertaking.

Provision as  
to general  
Railway  
Acts.

**60.** Nothing in this Act contained shall exempt the Company or the North British Railway Company or the railways of either company from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels.

Expenses of  
Act.

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

SCHEDULES referred to in the foregoing Act.

A.D. 1894.

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FIRST SCHEDULE.

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NAMES OF LIMITED OWNERS.

DONALD CAMERON OF LOCHEIL.  
 JOHN ANDREW MACDONALD OF GLENALLADALE.  
 GERTRUDE SUSAN NICHOLSON OF ARISAIG.

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SECOND SCHEDULE.

RATES ON VESSELS USING THE PIER AT MALLAIG.

	s.	d.
Every vessel other than open or undecked vessels using the pier or discharging or shipping goods within the limits shall pay		
per ton burden	0	2
For every undecked vessel - - - - - per ton burden	0	4

RATES ON HERRING BOATS &c.

For every herring boat and undecked boat coming to the pier with herrings or fresh fish or landing or taking on board goods or dried or salted fish - - - - - each	0	4
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RATES ON PASSENGERS.

For every person landing from or embarking in any vessel and using the pier - - - - -	0	2
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RATES ON ANIMALS AND GOODS SHIPPED OR UNSHIPED  
 RECEIVED OR DELIVERED AT THE PIER.

Ale beer or porter - - - - - per cwt.	0	1
Asphalte - - - - - per ton	0	6
Ballast - - - - - per ton	0	1
Bark in bulk or bag - - - - - per ton	0	10
Beef fresh or salt or other provisions - - - - - per cwt.	0	2



[Ch. clvi.] *West Highland Railway Act, 1894.* [57 & 58 VICT.]

A.D. 1894.

RATES ON ANIMALS AND GOODS—*continued.*

		s.	d.
Biscuit and bread	per cwt.	0	2
Bones	per ton	0	6
Bone dust	per ton	0	8
Books and stationery	per cwt.	0	4
Bottles	per cwt.	0	1
Bricks	per ton	0	8
Butter	per cwt.	0	2
Carriages with four wheels	each	0	8
Carriages with two wheels	each	0	6
Cattle viz. :—			
Bulls	each	0	2
Cows and oxen	each	0	2
Calves	each	0	0½
Horses asses and mules	each	0	2
Pigs	each	0	0½
Sheep	per score	0	6
Lambs	per score	0	3
Cement	per cwt.	0	1
Chimney cans	per cwt.	0	1
Clay	per ton	0	6
Cheese	per cwt.	0	4
Cloth haberdashery &c.	per cwt.	0	1
Clover seed	per cwt.	0	1
Corks	per cwt.	0	1
Coach or cart wheels	per pair	0	2
Coal	per ton	0	3
Copper and brass	per ton	1	4
Cordage	per ton	0	3
Corn	per cwt.	0	1
Crystal and crockery	per cwt.	0	1
Dogs (sporting only)	each	0	2
Drugs	per cwt.	0	1
Dissolved bones	per ton	0	8
Earthenware	per cwt.	0	1
Eggs	per cwt.	0	1
Fish fresh salted or dry	per cwt.	0	1
Flax	per cwt.	0	1
Flour	per cwt.	0	1
Freestone	per ton	0	2
Fruit	per cwt.	0	1
Fowls and ducks live	per dozen	0	2
Gates	each	0	2
Geese and turkeys	each	0	1
Glass	per cwt.	0	1
Grain—viz.—			
Wheat barley bear peas beans oats and all other descriptions of grain	per cwt.	0	1

RATES ON ANIMALS AND GOODS—*continued.*

A.D. 1894.

		s.	d.
Grates or stoves	each	0	2
Gravel	per ton	0	1
Grease and greaves	per cwt.	0	1
Grceries	per cwt.	0	1
Guano and artificial manures	per ton	0	8
Gunpowder	per cwt.	0	1
Hardware	per cwt.	0	1
Hares and rabbits	per dozen or any less quantity	0	2
Hay	per ton	0	6
Hemp and cotton unwrought	per ton	1	4
Hides	per ton	1	4
Ditto	each	0	0½
Household furniture	per cwt.	0	1
Hurdles	each	0	1
Husbandry utensils	per ton	1	4
Iron all kinds	per ton	1	0
Kelp	per ton	0	8
Lathwood	per cwt.	0	1
Lead of all kinds and zinc	per ton	1	4
Leather	per cwt.	0	1
Lime	per cwt.	0	1
Limestone	per ton	0	3
Machinery	per ton	1	4
Manure	per ton	0	2
Masts and spars	each	1	6
Mea.	per cwt.	0	1
Meat	per cwt.	0	2
Millstones	each	0	6
Oakum	per cwt.	0	1
Oil	per cwt.	0	2
Oilcake	per ton	0	8
Oysters	per cwt.	0	2
Passenger's luggage not exceeding one cwt. free.			
Passenger's luggage all above one cwt.	per cwt.	0	1
Peats	per ton	0	4
Peas and beans	per cwt.	0	1
Potatoes	per ton	0	6
Poultry including pigeons game and other birds	per dozen	0	1
Rape cakes	per ton	0	8
Rags	per cwt.	0	1
Ropes	per cwt.	0	3
Rye grass seeds	per cwt.	0	1
Salt	per cwt.	0	0½
Sand	per ton	0	3
Seaware or wreck	per ton	0	1
Seeds not enumerated	per cwt.	0	1
Skins dried	per ton	1	4

A.D. 1894.

RATES ON ANIMALS AND GOODS—*continued.*

	<i>s.</i>	<i>d.</i>
Slates under size - - - - -	per ton	0 8
Soda water or lemonade - - - - -	per cwt.	0 1
Spirits - - - - -	per cwt.	0 1
Spokes and felloes - - - - -	per ton	1 6
Steel - - - - -	per ton	1 4
Stones pavement - - - - -	per ton	0 4
Stones - - - - -	per ton	0 2
Straw - - - - -	per ton	0 4
Stucco - - - - -	per cwt.	0 1
Sugar - - - - -	per cwt.	0 1
Tallow - - - - -	per ton	1 4
Tar pitch or rosin - - - - -	per cwt.	0 1
Tea - - - - -	per cwt.	0 6
Tiles or pipes - - - - -	per ton	0 8
Timber unwrought of all kinds - - - - -	per ton	0 8
Tin of all kinds - - - - -	per ton	1 4
Turnips - - - - -	per ton	0 6
Turpentine - - - - -	per cwt.	0 1
Tobacco - - - - -	per ton	2 6
Vitriol - - - - -	per cwt.	0 1
Whisky - - - - -	per cwt.	0 1
Wine in cask - - - - -	per cwt.	0 1
„ bottle - - - - -	per cwt.	0 2
Wool - - - - -	per cwt.	0 4
Yarn - - - - -	per cwt.	0 1
All other unenumerated articles to pay at landing or shipping - - - - -	per ton	1 4

THIRD SCHEDULE.

RATES FOR THE USE OF WAREHOUSES SHEDS WHARVES CRANES AND WEIGHING MACHINES.

1. SHEDS.

For each ton of goods of eight barrels bulk or for each ton of goods of twenty hundredweight which shall remain in any warehouse shed or on the pier or on any wharf for a longer time than forty-eight hours the sum of fourpence and the sum of twopence per ton for each day during which such goods shall remain after the first forty-eight hours.

2. CRANES.

A.D. 1894.

						s.	d.
All goods or packages not exceeding	-	-	-	-	one ton	0	3
Exceeding one ton and not exceeding		-	-	-	two tons	0	4
"    two tons	"	"	-	-	three tons	0	6
"    three tons	"	"	-	-	four tons	0	8
"    four tons	"	"	-	-	five tons	0	10
"    five tons	"	"	-	-	six tons	1	0
"    six tons	"	"	-	-	seven tons	1	2
"    seven tons	"	"	-	-	eight tons	1	4
"    eight tons	"	"	-	-	nine tons	1	8
"    nine tons	"	"	-	-	ten tons	2	0
"    ten tons	-	-	-	-	-	3	0

3. WEIGHING MACHINES.

For goods weighed one penny for each ton or part of a ton.

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