~~GAY G.2~~

27, 1958

IN THE PRIVY COUNCIL No. 14 of 1957

ON APPEAL

FROM THE COURT OF APPEAL OF JAMAICA

B E T W E E N:

KINGSTON WHARVES LIMITED (Defendants) Appellants

- and -

REYNOLDS JAMAICA MINES LIMITED (Plaintiffs) Respondents

RECORD OF PROCEEDINGS

CLIFFORD-TURNER & CO.,
11, Old Jewry,
London, E.C.2.
Solicitors for the Appellants.

A.F. & R.W. TWEEDIE,
5, Lincoln's Inn Fields,
London, W.C.2.
Solicitors for the Respondents.

IN THE PRIVY COUNCIL No. 14 of 1957

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FROM THE COURT OF APPEAL OF JAMAICA

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- and -

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RECORD OF PROCEEDINGS

INDEX OF REFERENCE

E X H I B I T S

LIST OF DOCUMENTS NOT TRANSMITTED TO THE PRIVY COUNCIL

Description of Document	Date
IN THE RESIDENT MAGISTRATE'S COURT	
1. Notice to Produce Documents by Plaintiff/Respondent	21st February 1955
2. Summons for leave to give evidence by Affidavit for Plaintiff/Respondents	4th May 1955
3. Affidavit of Deryck Harvey Francis Stone (filed in support mentioned at 2 above) sworn:	4th May 1955
4. Resident Magistrate's Reasons for Judgment	6th July 1955
5. Notice of Resident Magistrate's Reasons	6th July 1955
IN THE COURT OF APPEAL - SUPREME COURT OF JAMAICA	
6. Notice of Appeal	29th June 1955
7. Notice of payment into Court of Security for Costs of Appeal and prosecution of Appeal	29th June 1955
8. Notice of Petition for Special Leave to Appeal to Her Majesty in Council	2nd February 1956
9. Petition for Leave to Appeal	2nd February 1956
10. Affidavit of Victor Carlyle Pilliner (filed in support of Petition for leave to Appeal) sworn:	2nd February 1956
11. Notice of payment into Court in accordance with provisional Order for Leave to Appeal	15th August 1956
12. Exhibit P.S.E.S.1. - Copy of Port Services (Dues, Charges and Management) Ordinance, 1948	1948
13. Exhibit P.S.E.S.2. - Bye-Laws contained in Government Notice No.31 of 1953	1955
14. Exhibit P.S.E.S.3. - Descriptive pamphlet (appearing as Exhibit W.T.G.1. in Part II of the Index)	1st October 1950
15. Exhibit A. - Takoradi Port and Harbour Regulations 1935 (Regulations No.B.37 of 1935)	1935

LIST OF DOCUMENTS NOT TRANSMITTED TO THE PRIVY COUNCIL
(Continued)

Description of Document	Date
16. Exhibit B - Takoradi Port and Harbour (Amendment) Regulations 1954 (L.N. 64/54)	1954
17. Exhibit C - Descriptive pamphlet (appearing as Exhibit W.T.G.1. aforesaid)	1st October 1950

IN THE PRIVY COUNCIL No. 14 of 1957

ON APPEAL
FROM THE COURT OF APPEAL OF JAMAICA

B E T W E E N:-

KINGSTON WHARVES LIMITED (Defendants) Appellants

- and -

REYNOLDS JAMAICA MINES LIMITED (Plaintiffs) Respondents

RECORD OF PROCEEDINGS

No. 1.

PLAINT NOTE

In the Resident Magistrate's Court.

No. 1.

Plaint Note.

24th February, 1955.

No. of Plaint 1158/55.

In the Resident Magistrate's Court for the Parish of Kingston to be holden at Kingston

REYNOLDS JAMAICA MINES LTD., Plaintiff c/o Livingston Alexander & Levy whose Postal Address is 20, Duke Street, Kingston

- and -

KINGSTON WHARVES LTD., Defendant of 66, Harbour Street, in the Parish of Kingston.

Sec. 149

Amount claimed £100. 0. 0. for monies had and received to the Plaintiff's use, the particulars of which are hereunto annexed.

£2.10.0. Court fees.

2/9d. Bailiff's fees.

£5.5.0. Solicitor's Costs.

The above Plaint was lodged with me on the 24th day of February, 1955.

(Sgd.) J. GROVES,

Clerk of the Courts.

In the Resident Magistrate's Court.

No. 2.

Particulars of Claim.

24th February, 1955.

No. 2.

PARTICULARS OF CLAIM

BETWEEN: REYNOLDS JAMAICA MINES LTD. Plaintiff

and KINGSTON WHARVES LTD., Defendant

The Plaintiff's claim is against the Defendant to recover the sum of £100. 0. 0. as money had and received by the Defendant to the use of the Plaintiff under the following circumstances:-

1. 5 Euclid Tractors and Trailers were landed on a wharf of the Defendant in Kingston Harbour ex S.S. Alcoa Ranger reported 5th November, 1951.

2. The Defendant refused to deliver the same to the Plaintiff unless the amount of £139. 6. 5. (which the Defendant wrongfully claimed was the amount payable for wharfage under the Wharfage Law Chapter 281) was first paid.

3. The Plaintiff being in urgent need of the said Tractors and Trailers paid the said sum under protest, to the Defendant in the Parish of Kingston on the 12th November, 1951.

4. The Plaintiff contends that the correct amount payable under the Wharfage Law for wharfage was £1. 2. 6. for each tractor and £0. 9. 0. for each trailer: That is £1.11. 6. per unit or a total of £7.17. 6. and that the Defendant has wrongfully extorted the sum of £131. 6.11.

5. The Plaintiff abandons the excess of its claim over and above £100. 0. 0. in order to bring its claim within the jurisdiction of this Honourable Court.

And the Plaintiff claims costs and Solicitors Costs.

Solicitors costs - 105/-.

LIVINGSTON ALEXANDER & LEVY.

Per: BRUCE B. BARKER.

Plaintiff's Solicitor.

This Plaint was issued by Livingston Alexander & Levy of No.20 Duke Street, Kingston, Solicitors for the Plaintiff who will accept service on its behalf.

No. 3.

SUMMONS.

In the Resident Magistrate's Court.

No. 3.

Summons.

24th February, 1955.

No.7 - Summons to Appear to a Plaint.

No. of Plaint 1158/55.

In the Resident Magistrate's Court for the Parish of Kingston to be holden at Kingston.

To, KINGSTON WHARVES LIMITED,
66, Harbour Street, Kingston. Defendant

WHEREAS a Plaint has this day been entered against you in this Court by -

REYNOLDS JAMAICA MINES LIMITED Plaintiff c/of Livingston Alexander & Levy whose postal address is Kingston, P.O., claiming from you the sum stated below in respect of the claim set forth in the annexed particulars:

These are therefore to require you to appear before the Resident Magistrate for the parish of Kingston in the Court House at 87 East St., on the 4th day of April One thousand nine hundred and fifty five at 10 o'clock in the forenoon, then and there to answer the Plaint of the said Plaintiff, in the said matter.

Given under the hand of the Clerk of the Court and sealed with the Seal of the Court at Kingston the 24th day of February One thousand nine hundred and fifty five.

(Sgd.) JOYCE GROVES,
Ag. Dep. Clerk of the Court

	£. s. d
Sum claimed	100. 0. 0
Court Fees on lodging the Plaint and issuing summons	2.10. 0
Bailiff's Fees	2. 9
Solicitor's Costs	5. 5. 0

In the Resident Magistrate's Court.

Kgn. 1158/55.

In the Resident Magistrate's Court for the parish of) Kingston holden at)
the 4th day of April, 1955.

No. 3.

Summons.

24th February, 1955 - continued.

REYNOLDS JAMAICA MINES LIMITED)
vs.) L. A. & L. SUMMONS.
KINGSTON WHARVES LTD.)

	£. s. d
Debt or Damages	100. 0. 0
Costs:-	
Summons	2.10. 0
Service	2. 9
Solicitor's Costs	5. 5. 0

No. 4.

Order for leave to give evidence by Affidavit for Plaintiff/ Respondents.

10th May 1955.

No. 4.

ORDER FOR LEAVE TO GIVE EVIDENCE BY AFFIDAVIT FOR PLAINTIFF/RESPONDENTS.

BETWEEN: REYNOLDS JAMAICA MINES LTD. Plaintiff
and KINGSTON WHARVES LTD. Defendant

UPON hearing the Application of Reynolds Jamaica Mines Limited IT IS ORDERED as follows :-

That the Plaintiff be at liberty to put in evidence the rates of Wharfage payable in ports, other than ports in Jamaica and the Statutes, regulations and circumstances under which the same are payable, on affidavits to be read in evidence at the trial of this suit, saving all just exceptions, and that liberty is reserved to either party to apply for further Directions upon giving fresh notice And that the costs of the said Application and this order be costs in the cause.

Dated the 10th day of May, 1955.

(Sgd.) A.C.V. GRAHAM,
Judge of the Court.

THIS ORDER is taken out by Livingston Alexander & Levy of No.20 Duke Street, Kingston, Solicitors for the Plaintiff whose address for service is that of its said Solicitors.

No. 5.

In the Resident Magistrate's Court.

AFFIDAVIT OF J. F. PARKINSON

BETWEEN: Reynolds Jamaica Mines Ltd. Plaintiff
and Kingston Wharves Ltd. Defendant

No. 5.

Affidavit of J.F. Parkinson (for Plaintiff/ Respondents)

9th May, 1955.

I, John F. Parkinson, Jr., being duly sworn MAKE OATH AND SAY as follows :-

1. My true place of abode is at 1724 Esplanade, Redondo Beach, California, U.S.A., my postal address is the same, and I am Traffic Manager for the Board of Harbor Commissioners, City of Los Angeles, Port of Los Angeles.

2. I am acquainted with, and have first hand knowledge of, the applicable wharfage dues and charges by virtue of my duties as said Traffic Manager for said Board of Harbor Commissioners, City of Los Angeles, Port of Los Angeles. My duties include, among others, direct supervision of tariff provisions of said Port of Los Angeles, which include wharfage dues and charges.

3. Said dues and charges are established by city ordinance and are set forth in Tariff No. 3 issued by said Board of Harbor Commissioners, City of Los Angeles, Port of Los Angeles. I exhibit herewith, marked Exhibit "X", copies of pages 17, 18 and 19 thereof, being attached hereto and made a part hereof by incorporation, said pages being true and correct in all respects and presently in effect.

4. The wharfage dues and charges payable on the importation into the Port of Los Angeles of a "Bottom-Dump Euclid" truck weighing 34,940 lbs. if landed direct by ship's crane onto a car or trailer by which the same is removed from the wharf would be as follows :-

   a. Wharfage rates, except as otherwise provided, are in cents per ton of 2,000 pounds or 40 cubic feet. (Exhibit "X", p. 17).

   b. If freight charges are computed by the vessel and shown on the manifest on a basis of weight or measurement, wharfage shall be assessed on the same basis, except as otherwise

In the Resident Magistrate's Court.

No. 5.

Affidavit of J.F. Parkinson (for Plaintiff/ Respondents)

9th May, 1955 - continued.

provided in Item No.415. (Exhibit "X", p.17).

c. When the basis of the freight charges is not shown on a manifest, wharfage shall be assessed on the basis of weight or measurement, whichever will yield the greater revenue, except as otherwise provided in Item No. 415. (Exhibit "X", p. 17).

d. Since pursuant to Item No. 415, page 19, Exhibit "X", agricultural, earth moving or road making equipment is exempted from the Vehicles Motor, self propelling, classification, the N.O.S. (Not Otherwise Specified) rate would apply.

e. The rate for merchandise, N.O.S. (Not Otherwise Specified) is found in column B under Item No.415, page 18, Exhibit "X", which would be the rate for intercoastal, foreign and offshore merchandise. For coastwise merchandise the applicable rate will be found in column A.

5. No other amount would be payable for the use of the wharf for the purpose of landing such truck in the manner above described provided that the truck would not remain on the dock beyond the free period of five days where inbound, coastwise or intercoastal trade is involved, or seven days in the case of foreign and offshore trade, this being in accordance with Section 5 of said Tariff. After the expiration of the free time the following charge would be made: $1.00 per ton or fraction thereof, or other unit, on the same basis as wharfage is assessed, for the first period of five days following the expiration of free time. The charge per each additional period of five days or fraction thereof is $2.00 per ton or fraction thereof, or other unit, on the same basis as wharfage is assessed.

John F. Parkinson, Jr.

SWORN at Los Angeles, California, U.S.A. this 9th day of May, 1955 before me

(Sgd.) Bertha E. Brasack

Notary Public in and for County of Los Angeles, State of California.

My commission expires August 18, 1958.

SEAL

No. 6.

AFFIDAVIT OF H.C. CANTELOW

BETWEEN: Reynolds Jamaica Mines Ltd. Plaintiff
and Kingston Wharves Ltd. Defendant

AFFIDAVIT

STATE OF CALIFORNIA)
COUNTY OF SAN FRANCISCO) ss.

H. C. CANTELOW, being first duly sworn, deposes and says :-

1. My true place of abode is 2950 Benvenue Avenue, Berkeley. My postal address is 2950 Benvenue Avenue, Berkeley, California.

2. I am the manager of the Marine Terminal Association of Central California and also the publishing agent of the tariff of the Marine Terminal Association of Central California. I have been so employed for the past 18 years. In the course of my duties I am thoroughly familiar with the rates and charges of the Marine Terminals Association of Central California.

3. The Marine Terminals Association of Central California consists of Encinal Terminals at Alameda, California, Howard Terminal at Oakland, California, and Parr Richmond Terminal Company, at Richmond, California. The rates, charges, rules and regulations for dockage, wharfage, demurrage and other services performed by these terminals are published in "Marine Terminals Association of Central California Terminal Tariff No. 1A", also known as "FMB No. 1" filed with the Federal Maritime Board.

4. The wharf dues and charges payable on the importation into any of the aforesaid San Francisco Bay terminals of a "Bottom-Dump Euclid" truck weighing 34,940 pounds if landed direct by ship's crane onto a car or trailer by which the same is removed from the wharf would be as follows :-

a. Wharfage assessed against the cargo, 50¢ per weight ton of 2,000 lbs., or 50¢ per measurement ton of 40 cu. ft., depending upon

In the Resident Magistrate's Court.

No. 6.

Affidavit of H.C. Cantelow (for Plaintiff/ Respondents)

11th May, 1955.

In the Resident Magistrate's Court.

No. 6.

Affidavit of H.C. Cantelow (for Plaintiff/ Respondents)

11th May, 1955 - continued.

whether the cargo is freighted on the steamer bill of lading on a weight or a measurement basis.

b. A service charge assessed against the vessel of $1.56 per weight ton of 2,000 lbs. at Howard and Encinal, and $1.41 per weight ton at Parr Richmond Terminal.

c. A dockage charge assessed against the vessel on the basis of the net registered tons of the vessel. It is not billed to the cargo nor determined by the weight of the cargo. The rate is $18.00 per day for a vessel of 3,001 to 4,001 net registered tons, and is an additional $3.00 per day for each additional 1,000 net registered tons.

5. No other amount would be payable for the use of the wharf for the purpose of landing such a truck in the manner above described.

(Sgd.) H. C. CANTELOW

Subscribed and sworn to before me this 11th day of May, 1955.

(Sgd.) Irene M. Wood,
Notary Public.

in and for the County of San Francisco State of California.

My Commission Expires June 23, 1958.

No. 7.

Affidavit of P.S.E. Stone (for Plaintiff/ Respondents)

11th May, 1955.

No. 7.

AFFIDAVIT OF P. S. E. STONE.

BETWEEN: Reynolds Jamaica Mines Ltd. Plaintiff

and Kingston Wharves Ltd. Defendant

I, PETER STANLEY EDWARD STONE being duly sworn MAKE OATH AND SAY as follows :-

1. My true place of abode is at No. 2, Rookery Nook, Maraval, Trinidad, B.W.I., my postal address is 17 St. Vincent Street, Port of Spain, Trinidad,

B.W.I., and I am a Solicitor of the Supreme Court of The Colony of Trinidad and Tobago and a member of the firm of Fitzwilliam, Stone & Alcazar, Solicitors of Port of Spain.

2. I was admitted to practice as a Solicitor in Trinidad on the 2nd day of August 1949 and have practised as a Solicitor in Port of Spain, Trinidad from that date until the present time.

3. I exhibit herewith marked "PSES 1" a copy of the Port Services (Dues, Charges and Management) Ordinance 1948 (hereinafter referred to as "the Ordinance") of Trinidad which came into force on the 13th December 1948 and which is now in force in Trinidad.

4. The Tariff of charges set forth in Schedule C to the Management of Harbours and Wharves Bye-laws (hereinafter referred to as "the Bye-Laws") set forth in Schedule IV to the Ordinance has from time to time been increased by amendment and most recently by Bye-Laws published in Government Notice No.31 of 1953 a copy of which is exhibited herewith marked "PSES 2" the said charges were increased by the percentages set out in the Schedule thereto item 1 being increased by 40% with effect from the 20th day of January 1953.

5. The wharf dues and charges payable on the importation into Trinidad of a "Bottom-Dump Euclid" truck weighing 34,940 lbs. (which is chargeable as 15 tons under Section 8(2) of the said Ordinance) as illustrated in the print exhibited herewith and marked "PSES 3" if landed by day on an ordinary working day direct by ship's crane onto a car or trailer by which the same is removed from the wharf within 96 hours would be £14.11.3. as follows :-

(a) "Wharf Dues" under the Ordinance Section 5 and Schedule 11, (Item (2) "General Cargo": 15 tons @ 60¢ W.I. $9.00 = £ 1.17. 6

(b) "Receiving, storing and delivering" under Schedule "C" to Bye-Laws, as amended by G.N.31 of 1953; Item 1: 15 tons @ $2.90 W.I. $43,50 plus 40% = $60.90 = 12.13. 9

£ 14.11. 3

In the Resident Magistrate's Court.

No. 7.

Affidavit of P.S.E. Stone (for Plaintiff/ Respondents)

11th May, 1955 -continued.

6. No other amount would be payable for the use of the wharf for the purpose of landing such a truck in the manner above described.

(Sgd.) P. S. E. STONE.

SWORN at Port of Spain, Trinidad, B.W.I. this 11th day of May, 1955, before me,

(Sgd.) CHAS.C.THOMSON,
Notary Public.

No. 8.

Affidavit of E.R.Wiltshire (for Plaintiff/ Respondents)

14th May, 1955.

No. 8.

AFFIDAVIT OF E. R. WILTSHIRE

BETWEEN: Reynolds Jamaica Mines Ltd. Plaintiff
and Kingston Wharves Ltd. Defendant

I, EDWARD RANDOLPH WILTSHIRE being duly sworn, MAKE OATH AND SAY as follows :-

1. My true place of abode is at Prospect Hill, Sekondi, Gold Coast, West Africa, my postal address is P.O. Box 41, Sekondi aforesaid and I am a Solicitor of the Supreme Court of the Gold Coast and a member of the firm of Giles Hunt & Co., Solicitors of Sekondi aforesaid.

2. I was admitted to practice as a Solicitor of the Supreme Court of the Gold Coast on the 1st day of December 1951 and I have practiced in the Gold Coast from that date until the present time.

3. I exhibit herewith marked "A" the Takoradi Port and Harbour Regulations 1935 (Regulations No. B 37 of 1935) and marked "B" the Takoradi Port and Harbour (Amendment) Regulations 1954 (L.N. 64/54) which are now in force with the effect of law in the Gold Coast, and which are together hereinafter referred to as "the Regulations".

4. Takoradi is the port for the hinterland of the Gold Coast up to the Northern Territories.

5. The wharf dues and charges payable on the

No. 8.

Affidavit of E.R.Wiltshire (for Plaintiff/ Respondents)

14th May, 1955 - continued.

importation into the Gold Coast of a "Bottom-Dump Euclid" truck weighing 34,940 lbs., as illustrated in the print exhibited herewith and marked "C" if landed direct by ship's crane onto a car or trailer by which the same is removed from the wharf, would be £3.15.9., as follows :-

"Wharfage on goods" under the Regulations Schedule IV Item X "Goods not otherwise provided for":

15.15 tons @ 5/- per ton = £3.15. 9.

6. In addition to the said wharfage dues and charges referred to in the last preceding paragraph there would also be charged by the Port Authority against the owner or operator of the carrying vessel, a sum representing port dues on the ship's cargo. It is customary for this liability to be passed on to the persons paying the freight charges and consequently the port dues on each item of cargo are added to and included in the charges made forfreight by the owner or operator of the carrying vessel. This sum would amount to £3.15. 9, as follows :-

"Port dues for vessels" under the Regulations Schedule IV Item I "Cargo not otherwise provided for":

15.15 tons @ 5/- per ton = £3.15. 9.

7. I am informed and verily believe that subject to clearance of the said truck within the time limited by the said Regulations for clearance without payment of rent or penalty, no other amount would be payable for the use of the wharf for the purpose of landing such truck in the manner above described.

SWORN at Sekondi, Gold Coast, this 14th day of May 1955, before me :-

(Sgd.) E. R. Wiltshire.

(Sgd.) C. E. M. Abbensetts

Notary Public.

In the Resident Magistrate's Court.

No. 9.

Notes of evidence taken by His Honour Mr.N.A.Peterkin.

20th May, 1955.

No. 9.

NOTES OF EVIDENCE TAKEN BY HIS HONOUR MR. N. A. PETERKIN, RESIDENT MAGISTRATE

On 20th May, 1955.

BETWEEN: Reynolds Jamaica Mines Ltd. Plaintiffs
and Kingston Wharves Ltd. Defendants

Mr. Blake instructed by Mr. Deryck Stone from the firm of Messrs. Livingston, Alexander & Levy for the Plaintiffs.

Mr. Coore instructed by Mr.Michael Nunes from the firm of Messrs. Judah & Randall for the Defendants.

Jurisdiction admitted at this stage.

DEFENCE: Defendants are Wharfingers and amount £139.6.5. was rightly claimed by Defendants under the provisions of the Wharfage Law, Chapter 281.

No.10.

Opening address by Plaintiffs' Counsel.

No. 10.

OPENING ADDRESS BY PLAINTIFFS' COUNSEL.

Mr. Blake opens shortly on facts :-

Excess wharfage paid under protest. Equipment urgently needed at the time. Plaintiff claims that correct amount is £7.17.6 being £1.2.6. per tractor and 9/- per trailer money paid under protest may be recovered in action. Tractors shown as "Bottom Dump Euclid" - detachable trailer fitted to tractor. Tractor weighs 18,000 lbs. and trailer 17,000 lbs. Together weigh 15½ tons. Used for bauxite-bearing earth. Tractor is "carriage" within Wharfage Law, and so is the trailer. Come under items 12 and 13 of Schedule A of Wharfage Law. Court referred to Chapter 281, Vol. IV, Sec.11 and Sec.16 (Increase of 50% on 15/- in Schedule A admitted - Jamaica Gazette Supplement

No.10.

Opening address by Plaintiffs' Counsel - continued.

dated 4th September, 1941. Regularised by Statute, Law 30 of 1951). (Also admitted, increase of 50% on 6/- in Schedule A - Regularised by same Law).

Plaintiffs contend that tractor should be valuedasa four-wheeled carriage, and trailer as a two-wheeled carriage. "Carriage" not defined in the Law Chapter 281. Submitted that any mechanical contrivance which carries people or weighs over the ground is a carriage. Conforms with dictionary meanings. Adopted by Philmore J. in Camer v Earl of Abingdon, 1900 2 Q.B., p.66. Relevant passage at page 71.

Defendants contend that tractors and trailers must be considered as one unit of six wheels. (Adumbrated in correspondence) and that they fall within sub-sec. 9 of sec. 16, to be fixed by special agreement, that is to say, unilateral declaration, which Defendants claimed to be £26.5/- per unit, which rate has been paid by other persons on special agreement which Defendants-Plaintiffs contend that even if tractor and trailer is not a carriage then Defendants entitled only to reasonable rate. That is the purpose of Affidavits.

Plaintiffs also contend that the proviso of sub-sec. 9 does not apply in this case, because even if particular carriage is in excess of 2 tons, it cannot be rated by special agreement as "machinery" or "heavy package", which can only be construed "ejusdem generis to machinery".

In Short

(1) Trailer and tractor to be rated separately and to fall within the rates of Schedule A.

(2) If rated together, then to fall within Part I of sub-sec.9.

(3) Even if it falls within the proviso of sub-sec.9, then rates to be reasonable rates in absence of special agreement.

In the Resident Magistrate's Court.

Plaintiffs' Evidence.

No.11.

W.T. Gilmore Examination.

No. 11.

WILLIAM TELL GILMORE

WILLIAM TELL GILMORE - Sworn states -

I am an Accountant employed to the Plaintiff Firm, with offices in St. Ann. I took up duties with Firm on 20th November, 1951. My Company was then using three Euclid tractors and trailers. Subsequent to my arrival, 5 new ones came in on 28th November, 1951. They were of the type described in the pamphlet shown to me. The previous three were also of the same type. (Pamphlet put in by consent and marked W.T.G.1.). The tractors and trailers are used for transporting earth to the plant for processing. The trailer can be detached from the tractor. Any trailer can be attached and used with the tractor but my Firm has no other trailers.

Cross-Examination.

Cross-examined: The two are specially adapted for use with each other. They can be coupled up without anything being done to them. I am not sure whether it would be necessary to do anything to any trailer which is not a Euclid trailer so as to enable it to be used with these tractors. We do not use the tractors for any other purpose. The trailer cannot haul without the tractor being attached. They are used entirely within the Firm's compound. They are not licensed for use on the highway. They were admitted in duty free in the 5-year period under the Bauxite Encouragement Law. The 5-year period has now passed. They are not allowed on the highway. We use mechanical cranes in the compound. They carry loads over the ground. We also have a mechanical belt which carried ore from the factory to the ships. There is a class of article which is described in commercial circles as "earth moving machinery". The tractors and trailers are called by us "ore hauling machinery". We call shovels, etc. "ore digging machinery". I have never heard our equipment referred to as "earth moving machinery." I have heard of "Le Tourneau", the earth mover. I don't know if he produced any tractors. I did not enquire into the wharfage rates. We have a Customs Broker. I would know from our records the rates paid in the port by our Firm. I have been told of a special rate charged by Defendant Firm for articles over two tons in the past. I don't know if our Firm have paid them in the past. I can't say without checking our records. I don't know if the Shipping Association has fixed special rates for articles over two tons.

Not Re-Examined.

No. 12.

In the Resident Magistrate's Court.

Plaintiffs' Evidence.

No.12.

H. A. Lowe

Examination.

HAROLD AUSTIN LOWE

HAROLD AUSTIN LOWE - Sworn states :-

I live at 3J St. James Road, Rollington Town, Kingston. I am Chief Customs Clerk to B.L.Williams & Co., Ltd., since 6th May, 1946. My employers were Customs Brokers for Plaintiff Firm since January, 1951. It is part of my duties to clear goods consigned to Plaintiff Company. I know the wharves of Defendant Firm. In November, 1951, my employers had instructions from Plaintiff Firm in connection with five complete tractors with dump trucks, that is five tractors and five trailers which open at the bottom. As a result, I attended on Defendants in connection with the wharfage payable. I saw the goods. They were of the type shown on pamphlet W.T.G.1. If taken together, they would be five units. All the trailers were detached from the tractors when I saw them. I went to the clerk in connection with the wharfage. I don't remember his name. He told me something. Mr. Pilliner was the Foreman of Defendant Company. I consulted him. I was contending that I should pay £1.2.6. on the tractors and 9/- on the trailers. He did not accept wharfage on that basis. I pointed out that on previous occasions I had paid that. I paid it in July, 1951, for the Plaintiff Firm. It was then six units, that is, three tractors and three trailers.

Mr. Pilliner then told me about heavy lifts. He claimed wharfage on that basis. That scale is 9d per hundred lbs. plus 50% for packages over 1 ton and under two tons. The rate for over two tons and under three is 9d per 100 lbs. plus 75%. On items over three tons, 9d per 100 lbs. plus 100%. I reported to my boss who spoke to him on the 'phone. He gave me certain instructions. I wrote to the Chairman of the Shipping Association. There was correspondence. Defendants would not accept the "carriage" rate. I got certain instructions from Plaintiff Firm. As a result, I remitted a cheque to Defendant Firm for £139.6.5. under cover of a letter. This is the letter signed by me (original produced from custody of Defendants and marked H.A.L.1.). Defendants would not release the goods unless that amount was paid. This consignment was landed at two wharves. Two trailers and one tractor at No. 3 Railway Pier. I was not present. I first saw them on the Railway Waggons. I did not see them removed. The Railway

In the Resident Magistrate's Court.

Plaintiffs' Evidence.

No.12.

H. A. Lowe

Examination - continued.

charge was £2 per waggon per day. The shunting charge is 2/6d per ton. The goods would be removed by ships tackle to the flat cars. The rest of the consignment went to the Princess St. Wharf. I saw them. They were separate. I did not see them removed by the Company's transport. I arranged for it.

Cross-Examination.

Cross-Examined: What I said about the heavy lift rates comes from the Wharfage Laws. They are well known to me. They are charged by all Wharfingers. A heavy lift is anything over 1 ton with the exception of motor vehicles. Motor vehicles are known as carriages. I have no receipt for the previous three tractors and trailers. The Plaintiff Firm has the receipt. It was the first time I cleared a tractor and trailer. I tendered the cheque to the cashier of Defendant Company and it was accepted. I don't remember who the cashier was. The weight determines the rate for "heavy lifts". I cleared one shipment for a Bauxite Company at Mandeville. There were no tractors. Plaintiff Firm is not the only Firm importing tractors and trailers. I have to do with the wharfage. It was I who concluded that they were "carriages". I had seen tractors before but not that size. I had never cleared one before. I don't know if they have always been classified as "heavy lifts". By "package" in wharfage circles, we mean any individual unit, that is to say, anything that comes off the boat in one unit. The tractor by itself would be one package.

Re-Examination.

Re-Examined: I wrote a letter to the Shipping Association on 7th November, 1951. I told Mr. Pilliner that I would take up the matter with them. Refreshing my memory from the letter, the first time I mentioned about the "carriage rate" for the July shipment was when Defendant Firm asked me to pay differently. I gave the Shipping Association those particulars. I have a charge book which relates the charges to the shipment. The books would show the nature of the goods for which paid. Mr. Barhal keeps the books. The average motor car weighs over one ton. They are classed as carriages. The average weight of four wheel trucks is 3,800 to 4,000 lbs. Some weigh more. They are all classified as carriages. Six-wheeled trucks weigh even more. Prior to March, 1954, the rates for these were £1.13.9. It was calculated as "carriages".

No. 13.

In the Resident Magistrate's Court.

NORMAN BARHAL

Plaintiffs' Evidence.

No.13.

N. Barhal. Examination.

NORMAN BARHAL - Sworn States :-

I am Managing Director of B.L.Williams & Co., Customs Brokers, with offices at 13, Port Royal Street, Kingston.

In 1951, we were Customs Brokers for Plaintiff Firm. We cleared goods on their behalf. We pay the wharfage on their behalf. We then render an account to them. I keep a record of transactions, made on their behalf personally. It shows a summary of goods cleared for them. I keep an invoice register itemising all items cleared. I have the records for July, 1951 for six pieces tractors and dumps for the Plaintiff Firm. It was cleared on 21st July, 1951. The clearance accounts books has £7.14.11 for the item along with 16 other packages. Any heavy item is landed by ships crane to the Railway car. For delivery, the Railway truck is shunted into the yard. The Railway crane removes it and puts it on a truck. Masterton Ltd., took delivery for Plaintiff Firm. A low loader truck was used. Masterton would arrange for the hiring of the crane Plaintiff Firm would pay them. At the Princess Street Wharf, there is no Government Railway. It would be put on the Wharf. Delivery would be made in the yard. Either the wharf owners or the Shipping Company would pay the Railway. (Books tendered as N.B.1. and N.B.2 at relevant pages without objection).

Cross-Examination.

Cross-Examined: I am familiar with the rates for heavy lifts. The amount varies according to the weight of the object. It is not reasonable for all goods. The Wharfage Law makes provisions for them. Sub-sec. 9 of Sec. 16 provides for them. The rates are fixed by special agreement. The Shipping Association fixed the rate. I won't agree that the rate is reasonable. I believe it was fixed in 1944. We pay it but we don't like to pay it. We have only been handling heavy lifts since 1951. We have had a lot of heavy stuff since 1951. We have paid the heavy lift rates apart from the tractors. Plaintiff Firm contends that they are carriages. If a mechanical crane had four wheels, I would regard it as a carriage. If it had no wheels I would regard it as machinery falling under heavy lifts. A caterpillar tractor would be heavy lifts. The wheels make the difference in my opinion.

In the Resident Magistrate's Court.

Plaintiffs' Evidence.

No.13.

N. Barhal.

Re-Examination.

Re-Examined: The Shipping Association I believe, is one of the Shipping Companies. Wharfingers are members. In 1944 we were one of the leading firms. Since 1951, we have handled heavy stuff regularly. We handled many in 1951. In 1952, the volume was also heavy. Since then it has tapered off.

(CASE FOR PLAINTIFF CLOSED)

Defendants' Evidence.

No.14.

V. Pilliner.

Examination.

No. 14.

VICTOR PILLINER

VICTOR PILLINER - Sworn states :-

I live at 47, Shortwood Road, St. Andrew. I am Secretary and Co-Manager of Defendant Firm since October, 1946. I rate items on manifests for wharfage charges. Any item weighing over one ton is rated at the heavy lift rates as set out by the Shipping Association in 1944. The rates were arrived at by the Shipping Association but I don't know how. It comprises most of the Shipping Agents and Wharfingers. The rates have been applied since 1944. They are open and notorious to all persons who deal with the importing of goods. The rates have to be applied as fixed. Packages in excess of one ton which are scheduled still pay the heavy lift rates with the exception of motor cars and trucks under two tons which are rated as carriages. Plaintiff Firm are not the only ones importing tractors. They were imported as far back as 1947 along with other heavy equipment. They have been rated as heavy lifts. I cannot recall having received any query except from Plaintiff Firm. In July, 1951, Plaintiff Firm did for some unknown reason have them rated as carriages. As far as I am concerned, it was a mistake. It was not my normal practice.

Cross-Examination.

Cross-Examined: In 1944 I can't say whether the Jamaica Base Contractors were in existence. Defendant Firm are not Shipping Agents. We are not members of the Shipping Association. Some of our Directors are represented on the Association. I

would say at least three. The Association has a Wharfage Committee. Our Directors may be members. I don't know. Mr. Kennedy may be a member of the Committee. He is one of our Directors. I can't say whether there was any consultation with representatives of Importers before the rates were published. Individual wharf owners are supposed to stick to the rates. The law is outmoded. The rates published were to take care of items not enumerated in the Wharfage Law. I don't know what "taches" are. Iron pots in packages of over one ton would be rated as heavy lifts. Any package over one ton would be rated as such. If it were machinery, it would be rated as such. Over one ton, the heavy lift rate would apply. The Shipping Association is the authority for rating iron over 1 ton as heavy lifts. I have never rated Drip-Stones above one ton. There were discussions on wharfage rates for tractors and trailers between the Brokers and the Shipping Association, and between my Company and the Brokers. If a trailer were to be ordered weighing 5 to 6 tons, it would be rated at the heavy package rate. If a four-wheel truck were ordered together with a four-wheel trailer of 1½ tons attached, the rating would depend on how it was described in the manifest. If the manifest said "detached", it would be two units. If it were silent it would be rated after enquiries made about it. If it were detachable, I would have to rate it as one unit unless it was apart. If apart, I would rate it as two units. If attached they are rated as a unit even if they can easily be detached. Trailers towed by cars are rated as carriages. Trailers used to carry canes come "knocked down". They are not assembled. I would rate a steam-roller as a heavy package. I can't say how I made the mistake in rating in 1951. It was not because tractors were then rated as carriages. The rates vary because of difficulty in handling. Things on wheels are not always easier to handle. Without wheels it would be more difficult to push them. My Company has no crane at the Princess Street Wharf. A tractor or trailer would be landed by ship's crane. Quick delivery would be taken straight from the Pier.

Re-Examination.

Re-Examined: To my knowledge, Plaintiff Firm have paid time and again the heavy lift rates on items rated as heavy lifts other than tractors and trailers.

In the Resident Magistrate's Court.

No. 15.

CYRIL ANTON CLARE

Defendants' Evidence.

No.15.

C. A. Clare.

Examination.

CYRIL ANTON CLARE - Sworn states :-

I am Manager of Motor Sales and Service Company. My Firm are the agents for Euclid tractors and trailers. W.T.G.1. is a Bottom-Dump Unit. They are used for dumping earth. They are of the highway Units. The tractor and the trailer go together. They are each adapted to be used together. They are known as tractor and bottom-dumped earth-moving trailers.

Cross-Examination.

Cross-Examined: My Company became Agents in 1953. The trailer can be detached from the tractor. The tractor can then be used for any other haulage. They are used for moving earth from one spot to another. I would describe a power shovel as a bit of earth-moving equipment. The shovel is not used for haulage. I have never had to clear any tractor or trailer from the wharf. An ordinary four wheel truck can be used for moving earth. It is frequently so used. I would not describe it as earth-moving equipment, because it can be used for anything else. The tractor and trailer can be used for any other haulage but it is not intended for that.

(CASE FOR DEFENDANTS CLOSED)

Adjourned to 2nd June, 1955 for addresses.

No.16.

Judgment of His Honour Mr.N.A.Peterkin.

24th June, 1955..

No. 16.

JUDGMENT OF HIS HONOUR MR. N.A. PETERKIN

Plaint No. 1158 of 1955.

BETWEEN: Reynolds Jamaica Mines Ltd. Plaintiffs
and Kingston Wharves Ltd. Defendants

J U D G M E N T

The Plaintiff claims from the Defendant the sum of £100 for money had and received by Defendant to the use of Plaintiff as the difference between a sum of money actually paid as wharfage

rates under protest by Plaintiff to Defendant, and the amount which the Plaintiff contends ought to have been paid.

2. The Plaintiff imported into the Colony in 1951, five Euclid Tractors and Trailers. The Defendant as wharfingers fixed the wharfage rates for these at £139.6.5. After an exchange of correspondence and not wishing to delay the delivery of the tractors and trailers, the Plaintiff paid this amount under protest, and contended that the correct amount was £7.17.6. The Plaintiff now sues for the difference in these sums after abandoning £31.6.11 to bring the matter within the jurisdiction of this Court. Briefly, the case for Plaintiff as adumbrated by Counsel in his opening may be put as follows :-

(1) Tractor and trailer should be rated separately as "carriages" under Schedule A of the Wharfage Law.

(2) If rated together, then, as "carriages", they should fall within part 1 of sub-sec. 9 of Section 16 of the Wharfage Law.

(3) Even if they are not "carriages", and they fall within the proviso to sub-sec. 9 of Section 16, then the rates should be reasonable rates in the absence of any special agreement.

3. To these, he added a fourth alternative in the course of his address, namely, that the tractor, by itself, if not a "carriage" might be rated as "machinery", and be subject to special agreement, but that the trailer should, in all circumstances, be rated as a carriage.

4. The defence, quite simply, is that they were correctly rated under the proviso to sub-sec. 9 of Section 16, the rates for which were fixed by the Shipping Association in 1944, are open and notorious to all persons who deal with the importing of goods, and have always been paid by others, and even by Plaintiffs themselves, for all goods not enumerated in the Schedule and weighing over two tons.

5. The main question for consideration then is

In the Resident Magistrate's Court.

No.16.

Judgment of His Honour Mr.N.A.Peterkin.

24th June, 1955 - continued.

whether or not the tractors and trailers of the type in this case are articles specifically enumerated in the Schedule to the Wharfage Law.

6. One of the main principles of interpretation is that a statute is to be expounded "according to the intent of them that made it". I think that regard must be had to context and external circumstances to see whether an interpretation is within the real intention of the legislature. The dictionary meaning of "carriage" is extremely wide and cannot be adopted, and I think that it is futile to refer to definitions in other Statutes. Words used with reference to one subject matter in a set of circumstances may convey a meaning quite different from that which the same words used with reference to another set of circumstances and another subject-matter would convey. For instance, a bicycle, although a "carriage" within an enactment against furious driving, would not necessarily be also a carriage under a Turnpike Act which imposed a toll on carriages propelled by steam or other agency. (Vide, Williams v Ellis (1880) 5 Q.B.D. 175, and Simpson v Teignmouth Co. (1903) 1 K.B.405). As the Earl of Halsbury has put it in the latter case, "The broad principle of construction put shortly must be this: What would, in an ordinary sense, be considered to be a carriage (by whatever specific name it might be called) in the contemplation of the Legislature at the time the Act was passed?"

7. With respect to whether or not they may be held to be "carriages", for the purposes of the Schedule, (Certainly, by no stretch of the imagination can they be held to be "carts"), the evidence had is that the tractors and trailers in question are used by the Plaintiff Company to carry bauxite-bearing earth to their plants for processing, and for no other purpose, and, that they are so used entirely within their own compound, and are not licensed for use on the highway. The Agent describes them as off-the-highway units. They are specially adapted for use together, and are, in fact used contemporaneously and I think that both common sense and good reason dictate that they should be regarded as being one unit. It may not be enturely jejune to mention that they have always been treated as "heavy lifts" by those whose duty it has been to rate them. As Channel, J. puts it in

Goldsmith's Co., v. Wyatt, "when the question is as to the meaning of an ambiguous term of common use, the fact that it has for a long period of years been understood in a particular sense by persons who have an interest or duty, in enforcing the act becomes very material". As new items which were not in existence at the time of the coming into operation of the Wharfage Law, they can only be included if it is absolutely clear that they fall within the definition, and the onus is on the Plaintiff to establish this. It is not for the Court to make an effort by ingenious subtleties to bring them within the operation of the Schedule. All in all, I am not satisfied that it was the intention of the Legislature that items such as the tractors and trailers in question should fall within the operation of the Schedule, and I am of the opinion that they come under the proviso to sub-sec. 9 of Section 16.

8. The only other matter that arises for consideration is whether or not the method of rating items falling within the proviso to sub-sec. 9 can be called into question, and the answer to this must be sought in the meaning of the words "special agreement". I am of the opinion that they mean agreement by treaty rather than individual contract. The evidence is that these rates were agreed upon by the Shipping Association, the membership of which is comprised, inter alia, of Shipping Agents and Wharfingers, as far back as 1944, and have been applied since then. They are open and notorious to all persons who deal with the importing of goods, and they have in the past, been paid by all, including the Plaintiff, on all items of heavy-lifts, and I am satisfied that they have been lawfully imposed in this instance.

9. For the reasons hereinbefore set forth, I am satisfied that there is no money due and owing by Defendant to Plaintiff and I accordingly enter Judgment for Defendant with costs.

Costs to be taxed - Refresher to be allowed at 2/3 of Scale.

(Sgd.) N.A.M. PETERKIN,
Judge,
Civil Division,
Kingston.
24/6/55.

In the Resident Magistrate's Court.

No.17.

Notice of Grounds of Appeal.

18th July, 1955.

No. 17.

NOTICE OF GROUNDS OF APPEAL.

BETWEEN: Reynolds Jamaica Mines Ltd. Plaintiff (Appellant)

and Kingston Wharves Ltd. Defendant (Respondent)

TAKE NOTICE that the following are the grounds of Appeal on which the above-named Plaintiff Appellant will rely at the hearing of the Appeal.

1. The Learned Resident Magistrate erred in finding that the five Euclid Tractors and Trailers imported by the Plaintiff ex SS Alcoa Ranger reported 5th November 1951 were not "Carriages" within the meaning of the Schedule to the Wharfage Law (formerly Chapter 281 but now Chapter 412). In fact the evidence established that they were such "Carriages".

2. The Learned Resident Magistrate erred in finding that such Tractors and Trailers have always been treated as "heavy lifts" to be rated by "Special Agreement" under Section 16 (9) of the Wharfage Law. In fact the evidence established that :-

(a) Before 1951 there had been only a small number of "heavy lifts" imported into Jamaica.

(b) In July 1951 the Defendant accepted wharfage on identical Tractors and Trailers as "Carriages" on an importation by the Plaintiff ex SS Alcoa Clipper reported 17th July 1951, as the Defendant did admit at the trial.

3. The Resident Magistrate erred in finding that the words "Special Agreement" in Section 16 (9) of the Wharfage Law mean "Agreement by treaty rather than individual contract". The words "Special Agreement" mean agreement between the person liable to pay (i.e. the importer) and the person entitled to receive (i.e. the Wharfinger) in each special case.

4. The Learned Resident Magistrate erred in finding that the Shipping Association could make a "treaty" or "Special Agreement" which would be binding on the Plaintiff. The Plaintiff is not and never has

No.17.

Notice of Grounds of Appeal.

18th July, 1955 - continued.

been a member of the Shipping Association. The Shipping Association is an Association of wharf owners, wharfingers and shipping agents, that is an Association of the persons entitled to charge wharfage, and not of the persons liable to pay wharfage.

5. The Learned Resident Magistrate erred finding that the Shipping Association had any right to fix rates by a unilateral declaration. The rates of wharfage are fixed and can only be fixed (apart from special agreement) by Statute. The Wharfage Law is intended to protect importers against exorbitant charges by wharfingers and has a long history having originated in the Statute 25 Geo. III c.5 of 1784. Increases in the rates have always been effected by Statute for example Law 35 of 1954.

6. The Learned Resident Magistrate erred in finding that in the past the rates demanded by the Defendant, have been paid by all including the Plaintiff, on all items of heavy lifts. The evidence was that the Plaintiff had only once before imported such Tractors and Trailers and they had then been rated as "Carriages" and in fact the Plaintiff had only commenced importing "heavy lifts" shortly prior to the importation in question in this case.

7. The Learned Resident Magistrate erred in finding that because the Plaintiff had paid wharfage on the "heavy lift scale" promulgated by the Shipping Association on other items, they had agreed to the scale for all items weighing over 2 tons. In fact there is in evidence that the "heavy lift scale" was known to the Plaintiff prior to the importation in question in this case. Evidence of any payments subsequent to 5th November 1951 would be irrelevant.

8. The Plaintiff contends :-

(a) that the said tractors and trailers are "Carriages" and should be rated as such and separately under the Schedule of the Wharfage Law; or alternatively,

(b) that if they should be rated together they fall within the first part of Section 16 (9) of the Wharfage Law and should be

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Notice of Grounds of Appeal.

18th July, 1955 - continued.

charged for in proportion to the rates fixed in the Schedule to the said Law for carriages; or in the further alternative,

(c) that if they should be rated by "Special Agreement" the onus was on the Defendant to prove such an Agreement and the Defendant has failed so to do; and, in the absence of Special Agreement the Defendant, as a bailee for reward, is entitled at common law to make a reasonable charge for his services but the only evidence as to reasonableness given at the trial were the affidavits of J.F.Parkinson, P.S.E. Stone, H.C.Cantelow and E.R.Wiltshire filed by the Plaintiff pursuant to an order made by His Honour Mr.A.C.V.Graham giving leave for evidence to be given on Affidavit.

The Plaintiff therefore PRAYS that the judgment of His Honour Mr.N.A.M.Peterkin may be reserved [sic] and judgment entered for the Plaintiff for the amount claimed with costs of the trial and this Appeal.

Dated this 18th day of July, 1955.

LIVINGSTON ALEXANDER & LEVY
Per: BRUCE B. BARKER,
Plaintiff-Appellant's Solicitors.

To the Clerk of the Resident Magistrate's Court
for the Parish of Kingston (Civil Division),
East Street,
Kingston.

And to the above-named Defendant
or their Solicitors Messrs. Judah & Randall,
11 Duke Street,
Kingston.

Filed by Livingston Alexander & Levy of No.20 Duke Street, Kingston, Solicitors for the Plaintiff-Appellant whose address for service is that of their said Solicitors.

No. 18.

JUDGMENT OF COURT OF APPEAL.

In the Supreme Court of Judicature of Jamaica
In the Court of Appeal.

REYNOLDS JAMAICA MINES LTD.

v.

KINGSTON WHARVES LTD.

Blake for the Appellants.
Coore for the Respondents.

The judgment of the Court (Carberry, C.J. Rennie and Cools-Lartigue, J.J.) was delivered by the Chief Justice on the 13th day of January, 1956.

The Plaintiffs, Appellants, a bauxite mining company imported 5 Euclid tractors and trailers which were landed on the Respondents' wharves. The Respondents demanded the sum of £139.6s.5d. as the wharfage due on these articles and refused to surrender them until that amount was paid. The Appellants satisfied this demand under protest, and they claim in this action, as monies had and received to their use, the difference between that sum and what they contend was lawfully chargeable, after having reduced the claim to £100 to bring the action within the jurisdiction of the Resident Magistrate's Court. The claim was dismissed in the lower court and the Appellants have appealed against that decision.

The tractors and trailers were landed in the port of Kingston on the 28th November, 1951, on two different wharves, both the property of the Respondents who are wharfingers; 2 trailers and 1 tractor were landed by the ship's crane direct into railway trucks at No. 3 Pier and 3 trailers and 4 tractors were landed on the Princess Street wharf. When these articles were first seen by the Appellant's representatives on the wharves the units were detached and as there was no evidence to the contrary, it has been assumed that each tractor and each trailer was landed separately and uncoupled. The tractors are internal combustion engines mounted on four rubber tyred wheels. Each tractor weighs 18,000 lbs. The trailers are dump wagons and each weighs 17,000 lbs. They are supported by 2 rubber

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tyred wheels. These vehicles are specially adapted for use with each other. The trailer is coupled up with the tractor which supplies the motive power. They were imported for transporting bauxite bearing earth to the Appellants' processing plant. These units were all imported under the Bauxite and Alumina Industries. (Encouragement) Law, Cap.37. Under that Law they were exempt from tonnage tax, customs duty and similar imposts; one of the conditions of the exemption being that they are not intended to be and will in no circumstances be used upon the public road, neither will they be required to be licensed under the Road Traffic Law.

The Respondents arrived at their charge by assessing the wharfage on these articles as "Heavy Lifts". The evidence shows that the Respondents rate as heavy lifts all items of 1 ton and upwards and the scale of charges for packages or units under this head are :-

1 ton up to under 2 tons	9d. per 100 lbs. plus 50 per cent
2 tons and under 3 tons	9d. per 100 lbs. plus 75 per cent
3 tons and upwards	9d. per 100 lbs. plus 100 per cent

and that the wharfage rates are imposed on the basis of the inwards manifest of the ship landing the articles. It appears that these "Heavy Lift" rates were fixed by the Shipping Association in 1944. No evidence was given as to the organisation, constitution and membership of this association other than that it consists of most of the shipping agents and wharfingers, and that some of the directors of the Respondent Company are members of that association. A Mr. Pilliner, the Secretary and Co-Manager of the Respondent Company said in evidence that the Shipping Association fixed these rates because "the law is outmoded".

In Schedule A to the Wharfage Law, Cap.281 of the Revised Laws of 1938, there appears these items:-

"Carriages, four wheels, including wheels, each	15s.
Carts and carriages of two wheels, including wheels, each ...	6s:

and by Law 30 of 1951 an increase of wharfage by fifty per centum was permitted to wharves in Kingston - effective as from the 12th September, 1941, so that in 1951 the effective charges for these two items under the Wharfage Law then in force was respectively, 22s.6d. and 9s. Four months before the importation of the tractors and trailers in question, i.e. in July 1951 - the Appellants imported 3 tractors and 3 trailers of the same type as those in question in this case and the Respondents collected wharfage on them as 4 wheel and 2 wheel carriages, respectively, in accordance with Schedule A. Mr. Pilliner said this was due to a mistake on his part. The Appellants have paid heavy lift rates to the Respondents on articles differing from these in question. The Respondents rate the wharfage on motor cars and motor trucks as carriages. Some 4 wheel motor trucks weigh as much as 4,000 lbs. Six wheel trucks which weigh even more were rated by the Respondents as carriages up to March 1954. They have since been rated as heavy lifts.

Mr. Pilliner said in evidence :-

"Any item weighing over one ton is rated at the heavy lift rates as set out by the Shipping Association in 1944. The rates were arrived at by the Shipping Association but I don't know how. It comprises most of the Shipping Agents and Wharfingers. The rates have been applied since 1944. They are open and notorious to all persons who deal with the importing of goods. The rates have to be applied as fixed. Packages in excess of one ton which are scheduled still pay the heavy lift rates with the exception of motor cars and trucks under two tons which are rated as carriages".

"If a spare trailer were to be ordered weighing 5 to 6 tons, it would be rated at the heavy package rate. If a four-wheel truck were ordered together with a four-wheel trailer of 1½ tons attached, the rating would depend on how it was described in the manifest. If the manifest said 'detached' it would be two units. If it were silent it would be rated after enquiries made about it. If it were detachable, I would have to rate it as one unit unless it was apart. If apart, I would rate it as two units. If attached they

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"are rated as a unit even if they can easily be detached. Trailers towed by cars are rated as carriages. Trailers used to carry canes come 'knocked down'. They are not assembled. I would rate a steam-roller as a heavy package. I can't say how I made the mistake in rating in 1951. It was not because tractors were then rated as carriages. The rates vary because of difficulty in handling".

For the Appellants it was submitted that the Respondents acted unlawfully in demanding wharfage in accordance with wharfage rates purported to have been fixed by the Shipping Association; that that association had no authority in law to fix wharfage rates and that the only wharfage which could validly have been demanded in respect of the Appellants' goods was that set out in Schedule A of the Wharfage Law in respect of carriages and/or carts.

In sec. 2 of the Wharfage Law there appears among the definitions :-

> "Wharfage shall mean the payment authorised by this Law to be demanded and received by any wharfinger for and in respect of the use of his wharf by any person and for services rendered thereat in respect of any goods of such person".

Under sec. 11 of the Wharfage Law - now Cap. 412 - every wharfinger is obliged to the extent of available accommodation to receive, ship or deliver all goods, wares and merchandise other than explosives, brought to his wharf; and sec. 12 provides the method of arriving at the wharfinger's remuneration for his services. It reads:-

> "Every wharfinger shall, either personally or by his servant, on demand made during the working hours by or on behalf of the person or persons whose names shall be entered in the books of such wharf as the person or persons to whom or on whose order any goods on such wharf are to be delivered, and on production of the bill of lading, ticket, receipt, or other voucher therefor, and on payment being tendered for the wharfage and storage (if any) of such goods, according to the rates fixed in one of the Schedules A, B, C or D to this

Law as applicable to the same, deliver such goods or any part of them:"

We are unaware of any method outside of this statute of determining the wharfage due to a wharfinger.

By an amendment to the Wharfage Law contained in Law 35 of 1954 provision was made for the establishment of a Wharfage Rates Advisory Board, but we can find no authority in Law for the function of determining wharfage rates by any other organisation, and Counsel who appeared at the hearing of this appeal are equally ignorant of any such authority in the Shipping Association or any other body or person. We are, therefore, unable to discover how the Shipping Association came to assume legislative competence in the matter of wharfage rates.

Mr. Coore on behalf of the Respondents attempted to show the validity of the wharfage rates fixed by the Shipping Association by arguing that they amounted to a special agreement within the meaning of the proviso to sub-section 9 of sec.16.

The sub-section reads :-

"Any goods not particularly enumerated and set forth in the Schedules A, B, C and D annexed to this Law shall be liable to be charged for in proportion to the rates therein fixed:

Provided, however, that in respect of machinery and other heavy packages exceeding two tons in weight the rates shall be fixed by special agreement".

The submission as we understand it was that the wharfingers were entitled by special agreement among themselves to fix the rates of articles not particularly enumerated in the Schedule and that they appointed the Shipping Association to do so.

To refute this submission it seems only necessary to state it. In the context special agreement clearly refers to one reached by the wharfinger and the person liable to pay wharfage dues. Mr. Coore appreciated this as his alternative submission was that if special agreement meant an agreement between the importer and the wharfinger, the schedule of rates fixed by the Shipping Association and circulated to customs brokers and others

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interested in the importation of goods is a standing offer to the community of the charges which will be imposed by anyone using the wharves and when the offer is accepted it becomes a special agreement. He went on to argue that if an importer did not want to pay the wharfage according to those rates, his only remedy was to abstain from importing the goods. This proposition is equally untenable. This would be an impost - not an agreement. The argument assumes that every prospective importer is familiar with the rates fixed by the Shipping Association which is a rather rash assumption. Moreover, in the case of the present Appellants, although they had previously paid heavy package rates on different articles, they had previously paid wharfage for Euclid tractors and trailers to the Respondents under the category of carriages.

There is a further difficulty which the Respondents encounter in trying to justify the wharfage charges they imposed. The proviso as to special agreement applies only to machinery and other heavy packages exceeding two tons which are not particularly enumerated, but the rates fixed by the Shipping Association apply to all packages or units, whether particularly enumerated or not when they exceed, not two tons, but one ton in weight.

It was common ground at the hearing of the appeal that motor vehicles were rated by the Respondents as carriages. Mr. Coore argued that that was so merely because S.2(2) of the Road Traffic Law, Cap.346, stated that -

> "Every motor vehicle shall be deemed for any purpose, to be a carriage within the meaning of any Law of this Island and of any rules, regulations or bye-laws made under any Law of this Island, and if used as a carriage of any particular class shall be deemed to be a carriage of that class, and the Law relating to carriages of that class shall apply accordingly".

In the same section motor vehicle is defined thus - "motor vehicle" means any mechanically propelled vehicle intended or adapted for use on roads". Mr. Pilliner's evidence disclosed that in spite of these provisions of the Road Traffic

Law, motor vehicles are only rated as carriages if they are under two tons in weight.

It is clear from the foregoing that the Respondents had no authority to collect the wharfage which they demanded in respect of the tractors and trailers in this case. What then was the proper wharfage due to the Respondents?

We are indebted to both Counsel for their investigation of the history of the local legislation on this subject. In the first Wharfage Law - passed in 1784 - 25 Geo. III, c.5, there appeared in the Schedule these items: "For each coach", "For each chariot", "For each chaise". They were all well known vehicles for carrying passengers and they were rated without regard to weight. The Wharfage Law 15 of 1895 re-enacted a great deal of the original Law and subsequent amendments, and repealed all the previous wharfage legislation. In the 1895 Law, the items "Coach, Chariot and Chaise" were omitted and there appeared "Carriages of four wheels including wheels" as one item and next following was "Carts and carriages of two wheels including wheels". The legislature must have had good reason for thus changing the language of the statute. They had previously listed three well known types of passenger carrying vehicles and they discontinued this and adopted the generic word carriages as comprehending wheeled vehicles used for carrying both passengers and goods and they added as the next following item, carts and carriages of two wheels. Mr. Coore argued that the use of the word carts here indicates that carriages was not used generically. We do not agree. The item carts and carriages of two wheels, appears without any punctuation between the words carts and carriages. This seems to emphasize that the intention of the Legislature was that carriages included carts. The basis of differentiation in respect of wharfage was in the number of wheels; no regard was paid to the weight of the vehicle. These two items remain in the schedule in substantially the same way. They now read "Carriages four wheels including wheels", and "carts and carriages of two wheels including wheels". It is interesting to note that in 1895 mechanically driven carriages were well known. The motor car was in existence then and it seems reasonable to conclude that the generic term carriages was adopted so as to include this new type of horseless carriage.

In the Court of Appeal.

No.18.

Judgment of Court of Appeal.

13th January, 1956 - continued.

A similar problem was reviewed in Simpson v. Teignmouth & Sheldon Bridge Co. (1903) 1 K.B.405.

The Statute under consideration contained the words :-

> "For every coach, chariot, hearse, chaise, berlin, landau and phaeton, gig, whisky, car, chair, or coburg, and for every other carriage hung on springs, the sum of sixpence for each wheel, and for each horse or other beast of draught drawing the same the sum of twopence".

The question for decision was whether a bicycle came within the section. In his judgment the Earl of Halsbury said at p. 411:

> "The truth is that, when you are dealing with a question of this sort and endeavouring to find out whether a thing is taxable or not under Acts of this character, the first thing to do is to find out whether there is anything which corresponds in the ordinary and natural course of meaning to the language which the Legislature at the particular time used in making the things mentioned in such Acts the subject of taxation. I do not think it is a question merely of words whether the thing sought to be made taxable was called a coach or not, if it was intended to fill the functions of a carriage according to the description given in the original Act. I quite agree that the mere fact that it was called by a different name from those enumerated in the Act would not matter, because the language would have been used by the Legislature in a sense which everybody could understand, and which would comprehend the particular thing although it might be called by another name. I think that is the meaning of the general words with which the section in question concludes, and that although there was a known certain form of coach or carriage which was in vogue at that time, yet in effect the Legislature says: 'Well, if there are other things of this sort which are made hereafter or which we have forgotten to enumerate, they will be equally liable to the tax".

It is true that there has been a considerable

development in that type of carriage since the 1895 Law was passed, but if what is in the ordinary sense known as a carriage at the time the Legislature passed the Law is still substantially within that definition by whatever name it may now be called, we think that for purposes of the Wharfage Law it comes within the word carriage.

There was a question raised of these being six wheeled vehicles. If they were, it might be that they would be covered under s.s. 9 of sec. 16 and liable (as carriages) to be charged for in proportion to the rates fixed in the Schedule and they would then be rated proportionately according to the number of wheels; but we are of opinion that this difficulty does not arise. They appear to have been landed, not as 6 wheeled vehicles, but separately as 4 wheeled tractors and 2 wheeled trailers, and consequently each tractor would be assessable to wharfage as a 4 wheeled carriage and each trailer as a 2 wheeled carriage.

The Appellants were liable to pay wharfage of £1.13s.9d. in respect of each tractor and 13s. 6d. in respect of each trailer a total wharfage of £11.6s.3d.

The judgment entered in the Court below must be set aside and judgment entered for the Plaintiff-Appellants for £100 with costs and Solicitor's costs, and the Appellants must have their costs of the appeal which we fix at £12.

(Sgd.) J. E. D. CARBERRY, C.J.

(Sgd.) A. B. RENNIE, J.

(Sgd.) ALEX. R. COOLS-LARTIGUE, J.

In the Court of Appeal.

No.19.

Order granting Provisional Leave to Appeal to Her Majesty in Council.

17th May, 1956.

No. 19.

ORDER GRANTING PROVISIONAL LEAVE TO APPEAL TO HER MAJESTY IN COUNCIL

REYNOLDS JAMAICA MINES LTD. Plaintiff/Respondents
and
KINGSTON WHARVES LTD. Defendant/Applicants

The 17th day of May, 1956.

The Petition for leave to Appeal to Her Majesty in Council herein coming on for hearing this day before the Honourables the Chief Justice, Mr. Justice Rennie and Mr. Justice Semper and after hearing Mr. David Coore of Counsel on behalf of the Defendant/Applicants and Mr.V.O.Blake of Counsel on behalf of the Plaintiff/Respondents IT IS ORDERED as follows :-

1. That the Defendant/Applicants do have leave pursuant to the provisions of Rule 2 s.s.b. of the Rules governing appeals of Her Majesty in Council to appeal against the whole of the judgment of this Honourable Court delivered herein on the 13th day of January, 1956, upon the following conditions :-
   (a) That the Defendant/Applicants within a period of three months from the date of this order enter into security to the satisfaction of this Court in the sum of £500.
   (b) That the Defendant/Applicants do within a period of three months from the date of this order take the necessary steps to procure the preparation of the record and the dispatch thereof to the Registrar of Her Majesty's Privy Council with liberty to the Defendant/Applicants to apply.
2. That pending the judgment or order of Her Majesty in Privy Council execution of the judgment of this Honourable Court be stayed.
3. That the costs of this application and order shall abide the event.

BY THE COURT:

L.S. (Sgd.) K.C.HENRY
(Dep.) Registrar.

ENTERED by Messrs. Judah & Randall of No. 11 Duke Street, Kingston, Solicitors, for and on behalf of the Defendant/Applicants.

No. 20.

In the Court of Appeal.

No.20.

Order granting extension of time for preparation and despatch of the Record.

5th April, 1957.

ORDER GRANTING EXTENSION OF TIME FOR PREPARATION AND DESPATCH OF THE RECORD

REYNOLDS JAMAICA MINES LTD. Plaintiff/Respondents

and

KINGSTON WHARVES LTD. Defendant/Applicants

The 5th day of April, 1957

The Application for leave to extend the time within which the Defendant/Applicants shall take the necessary steps to procure the preparation and dispatch of the record herein coming on for hearing this day before the Honourables the Chief Justice, Mr. Justice Rennie and Mr. Justice Semper and after hearing Mr. David Coore of Counsel on behalf of the Defendant/Applicants and Mr. V. O. Blake of Counsel on behalf of the Plaintiff/Respondents IT IS ORDERED that the time within which the Defendant/Applicants shall take the necessary steps to procure the preparation and dispatch of the record to the Registrar of Her Majesty's Privy Council be extended by seven days from the date hereof and that the costs of this application and order be costs in the cause.

BY THE COURT:

(Signed) F. N. BARROW.

Registrar.

ENTERED by Messrs. Judah & Randall of No.11 Duke Street, Kingston, Solicitors, for and on behalf of the Defendant/Applicants.

In the Court of Appeal.

No.21.

Order granting final Leave to Appeal to Her Majesty in Council.

24th April, 1957.

No. 21.

ORDER GRANTING FINAL LEAVE TO APPEAL TO HER MAJESTY IN COUNCIL

REYNOLDS JAMAICA MINES LTD. Plaintiff/Respondents

and

KINGSTON WHARVES LTD. Defendant/Applicants

The 24th day of April 1957

The Application for final leave to Appeal to Her Majesty in Council herein coming on for hearing this day before the Honourables The Chief Justice, Mr. Justice Rennie and Mr. Justice Semper and after hearing Mr. David Coore of Counsel on behalf of the Defendant/Applicants and Mr. V. O. Blake of Counsel on behalf of the Plaintiff/Respondents and upon referring to the record herein and to the Certificate of the Registrar of the Supreme Court filed herein on the 12th day of April, 1957, IT IS ORDERED that the Defendant/Applicants do have final leave pursuant to the provisions of the rules governing appeals to Her Majesty in Council to appeal against the whole of the Judgment of this Honourable Court delivered herein on the 13th day of January, 1956.

BY THE COURT:

(L.S.) (Sgd.) F. N. BARROW,

Registrar.

ENTERED by Messrs. Judah & Randall of No. 11 Duke Street, Kingston, Solicitors, for and on behalf of the Defendant/Applicants.

E X H I B I T S

Exhibits

X.

Part of Tariff No.3 issued by Board of Harbour Commissioners, City of Los Angeles, Port of Los Angeles.

28th May, 1953.

X.- PART OF TARIFF No.3 ISSUED BY BOARD OF HARBOUR COMMISSIONERS, CITY OF LOS ANGELES, PORT OF LOS ANGELES.

Board of Harbour Commissioners - Port of Los Angeles - Tariff No. 3

First Revised Page 17 Cancels Original Page 17

SECTION FOUR

WHARFAGE

Item No.

DEFINITION

Wharfage is the charge, calculated in accordance with the wharfage rates named in this Tariff, for the service or use of a municipal wharf and wharf premises and its approaches and appurtenances in the passage and handling of merchandise thereover or thereunder, for the deposit of merchandise thereon awaiting shipment, or for the passage of merchandise over the side of the vessel for unloading to or loading from other vessels, or direct to or from the water, while such vessel is made fast to any municipal wharf or is moored in any slip, basin, channel or canal; subject to Section Five of this Tariff. Wharfage is in addition to the other charges named in this Tariff. 400

APPLICATION OF WHARFAGE RATES AND CHARGES

The applicable rates and charges for wharfage shall be

(1) On inbound merchandise, the rates and charges in effect on the date that the vessel commences discharging merchandise, 405

and

(2) On outbound merchandise, the rates and charges in effect on the date that wharfage accrues thereon.

WEIGHT OR MEASUREMENT

(a) The wharfage rates named in this section, except as otherwise provided, are in cents per ton of 2000 pounds or 40 cubic feet.

Exhibits

X.

Part of Tariff No.3 issued by Board of Harbour Commissioners, City of Los Angeles, Port of Los Angeles.

28th May, 1953 - continued.

Item No.

(b) When freight charges are computed by the vessel and shown on the manifest on a basis of weight or measurement, wharfage shall be assessed on the same basis, except as otherwise provided in Item 415.

(c) When the basis of the freight charges is not shown on a manifest, wharfage shall be assessed on the basis of weight or measurement, whichever will yield the greater revenue, except as otherwise provided in Item 415; provided that on merchandise which is moving on other than a weight or measurement basis (e.g. per package, etc.) wharfage shall be assessed as follows :- ⁂ 410

(1) On merchandise moving in Coastwise and Intercoastal Trades per ton of 2,000 pounds, except as otherwise provided in Item 415; and

ϕ (2) On merchandise moving in Foreign and Offshore Trade per ton of 2,000 pounds or 40 cubic feet, whichever will yield the greater revenue, except as otherwise provided in Item 415; provided, that any merchandise which is not covered by a regular commercial steamship line's manifest and is not moving under regularly established commercial rates, published in commercial tariffs but is moving in Foreign and Offshore Trade and is moving to or from ports that are served by vessels operating in regular trade routes, shall be assessed wharfage on the same basis of weight or measurement as the freight charges on such merchandise would have been computed by vessels operating in such regular trade routes under commercial tariffs and would have been shown on such regular commercial steamship line's manifest.

Order No. 2495, Adopted March 11, 1953
Ordinance No. 101484, Adopted April 23, 1953.

EFFECTIVE MAY 28 1953

Issued by BOARD OF HARBOUR COMMISSIONERS
T. G. MADDOX, Traffic Manager.
Room 1300, City Hall, Los Angeles 12, California.
Correction No.7.

⁂ Change. ϕ Reduction.

Exhibits

X.

Part of Tariff No.3 issued by Board of Harbour Commissioners, City of Los Angeles, Port of Los Angeles.

28th May, 1953 - continued.

Board of Harbour Commissioners - Port of Los Angeles - Tariff No. 3

First Revised Page 18 Cancels Original Page 18

SECTION FOUR - Continued
WHARFAGE - Continued

Item No.

WHARFAGE RATES

Column A - Rates apply on Coastwise Merchandise (See Item 100(n);
Column B - Rates apply on Intercoastal, Foreign and Offshore Merchandise (See Item 100(o) and (p);
(Except as noted in individual items).

	Rates in Cents A	B	Item No.
Merchandise N. O. S..... Exception: Merchandise on which no wharfage will be charged.(See Item 420).	25	50	
Merchandise, in bulk (See Exceptions 1, 2 and 3)	25	35	
Exception 1: Ballast (other than as provided in Item 420), Chalk, Clay, Cliffstone, Gravel, Nitrates, Ores, Pyrites, Rock, Salt, Sand, Sulphur and Concentrates, in bulk, direct between vessel and car, truck or barge or direct to or from another vessel	25	30	
Exception 2: Copra in bulk, not deposited on wharf or wharf premises, direct between vessel and shore storage facilities by mechanical conveyors or stevedors equipment..	25	25	
Exception 3: All bulk commodities loaded at Berths 136 and 137 by means of mechanical loader.....	¢10	¢10	
Bananas, on unpacked stems, per ton of 2,000 pounds	25	50	
Exception: Direct between vessel and car by private overhead mechanical conveyors, per ton of 2,000 pounds	25	35	*415
Borate, Borax, Boric Acid, Potash, Salt, Cake, Soda Ash, and Sulphate of Sodium, in bags, barrels, cases, drums or kegs	25	35	

Exhibits

X.

Part of Tariff No.3 issued by Board of Harbour Commissioners, City of Los Angeles, Port of Los Angeles.

28th May, 1953 - continued.

	Rates in Cents. A	B	Item No.
Cement, hydraulic, masonry, mortar, natural or portland, in bags or barrels	25	35	
Coffee, green, in bags, per ton of 2,000 pounds	25	50	
Containers and Carriers, shipping empty, not including bags or sacks, N.O.S., set-up second-hand (used), per 40 cu. ft. or 2,000 pounds, whichever yields the greater revenue.			10
(1) Applies only on Foreign or Offshore Merchandise	(1)		25
Fresh Fish: Unloaded at Municipal Fish Market Wharf (Berth 72), at Fish Harbour Wharf (Berth 260 to 267), Fries Street Wharf (Berth 182), or at any other wharf designated by the General Manager, for use of fish canneries or for re-sale	15	15	20
Fresh Fruit, manifested on a per package basis, per ton of 2,000 pounds	25	50	
Liquids, except petroleum and petroleum products, and water as provided in Section 10 - In bulk, from and to vessel through private line	10	10	
Livestock per head, viz:			30
Cattle, Horses, Mules and Donkeys	25	50	
Colts and Calves	10	26	
Hogs, Sheep, Goats and Dogs	4½	11	

* Change. ∅ Reduction.

Order No. 2495,
Adopted March 11, 1953.
Ordinance No. 101484,
Adopted April 23, 1953.

EFFECTIVE
MAY 28, 1953

Issued by BOARD OF HARBOUR COMMISSIONERS
T.G. MADDOX, Traffic Manager,
Room 1300, City Hall, Los Angeles, 12, California.

Correction No. 8.

Exhibits

X.

Part of Tariff No.3 issued by Board of Harbour Commissioners, City of Los Angeles, Port of Los Angeles.

28th May, 1953 - continued.

Board of Harbour Commissioners - Port of Los Angeles - Tariff No. 3.

Second Revised Page 19
Cancels
First Revised Page 19

SECTION FOUR - Continued
WHARFAGE - Continued

Item No.

WHARFAGE RATES - Continued	Rates in Cents A	Rates in Cents B	Item No.
Lumber and Lumber Products viz:			
Ash, Hickory, Oak, Mahogany and all other hardwood lumber, logs and timber, per 1,000 ft. B.M.....	45	104	
If freighted by vessel or other than a B.M. basis, the merchandise N.O.S. rate shall apply			
Cedar, Fir, Pine, Redwood, Spruce and all other softwood lumber, logs and timber N.O.S. including Laths, Shingles, Shakes and Ties, per 1,000 ft. B.M.....	25	86	
If freighted by vessel on other than B.M. basis the merchandise N.O.S. rate shall apply.			
Piles and Poles, per lineal foot....	¼	½	
Dunnage and Ship Lining (other than as provided in Item 420), per 1,000 ft. B.M.....	25	86	
On all other lumber and forest products N.O.S. the Merchandise N.O.S. rates shall apply.			X 415 (Contd.)
Petroleum and Petroleum Products:			
In bulk from or to vessel, direct through private line, per barrel of 42 gallons	½	½	
In bulk from or to vessel, direct through municipal line, per barrel of 42 gallons	1	1	
From barge to Vessel at municipal wharf, when barge not previously loaded at a municipal wharf or at any other oil loading wharf designated by the Board, per barrel of 42 gallons	1	1	

Exhibits

X.

Part of Tariff No.3 issued by Board of Harbour Commissioners, City of Los Angeles, Port of Los Angeles.

28th May, 1953 - continued.

	Rates in Cents. A	B	Item No.
Petroleum products, except gasoline, in bulk, moving direct between vessel and tank car or truck	10	10	
Petroleum products and compounds, when handled otherwise than through pipe line viz :-			
Gasoline, kerosene, naphtha, distillate, fuel oil, liquefied petroleum gas, and other petroleum products or compounds that will flash below 175 degrees Fahrenheit, closed cup test, in barrels, drums and cased containers of not less than 5 gallons to each container	25	50	10
United States Mail, per Bag, Pouch, Sack or Piece (See Note)	1½	1½	
Note - Piece covers other packages not exceeding in size Bags, Pouches or Sacks.			20
Vehicles, Motor, self propelling viz: (See Exception).			
Automobiles, Pleasure, Passenger, Commercial, or Freight, including Chassis, freight trailers or freight semi-trailers, not boxed or crated, S.U. on own wheels per ton of 2000 pounds. (When boxed or crated merchandise N.O.S. rates will apply)	35	207	30
Exception: Does not include agricultural, earth moving, or road making equipment.			
Vessel's Stores and Supplies, per ton of 2,000 pounds (other than as provided in Item 420)	25	50	

* Change.

Order No. 2495, Adopted March 11, 1953
Ordinance No. 101484, Adopted April 23, 1953.

EFFECTIVE MAY 28, 1953

40

Issued by BOARD OF HARBOUR COMMISSIONERS
T.G. MADDOX, Traffic Manager
Room 1300, City Hall, Los Angeles 12, California.

Correction No.9.

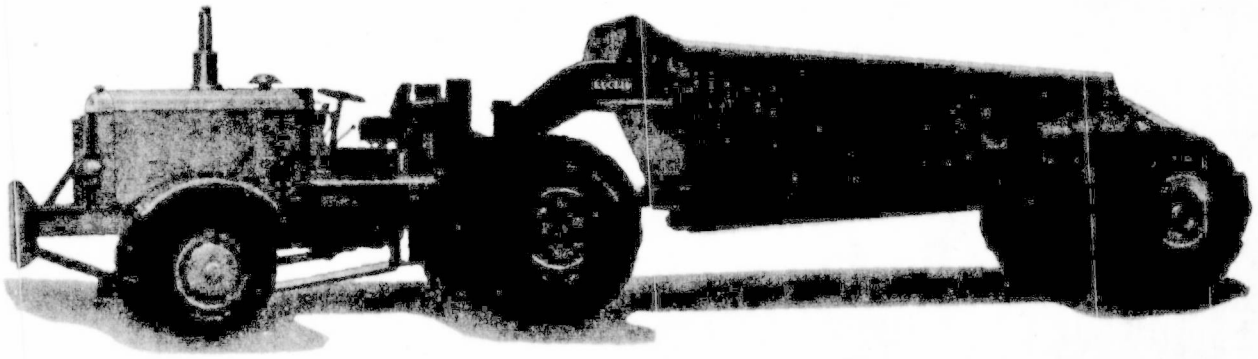
45

W.T.G.l. - Descriptive Pamphlet
of Bottom-Dump Euclid

Des
tive
Pamphlet
of
Bottom
Dump
Euclid
1st
October
1950.

MODEL 71FDT-89W
BOTTOM-DUMP EUCLID

40,000 POUND PAYLOAD CAPACITY
GMC 6-71 ENGINE 190 HP
FIVE SPEED TRANSMISSION



SPECIFICATIONS SUBJECT TO CHANGE WITHOUT NOTICE

OCTOBER 1, 1950
~~FEBRUARY 20, 1953~~

THE EUCLID ROAD MACHINERY COMPANY

CLEVELAND 17, OHIO

DETAILED SPECIFICATIONS ~~71FDT-89W~~

MODEL 71FDT-89W BOTTOM-DUMP EUCLID

(RATED PAYLOAD 60,000 POUNDS)

TRACTOR

ENGINE

GENERAL MOTORS TWO-CYCLE DIESEL, SERIES 71, MODEL 6094.

RATED HP AT 1800 RPM	190	TOTAL DISPLACEMENT	425 CU. IN.
MAX. TORQUE AT 1200 RPM	500 FT. LB.	LUBRICATION	PRESSURE FEED
NO. OF CYLINDERS	6	FLYWHEEL HOUSING, SIZE	NO. 1 SAE
BORE & STROKE	4-1/4" x 5"	NET WEIGHT	~~2200~~ 2075 LBS.

ELECTRICAL

BATTERY	12 VOLT WILLARD	CRANKING MOTOR	DELCO-REMY
NO. REQD.	2	VOLTAGE	12
NO. OF PLATES	25	LIGHTING SYSTEM:	
GENERATOR	DELCO-REMY	VOLTAGE	12
VOLTAGE	12	ACCESSORIES - VOLTAGE	12

FILTERS

AIR	DONALDSON	LUBE. 1ST STAGE	~~NUGENT~~ GMC
TYPE	OIL BATH	TYPE	~~ELEMENT~~ SCREEN
LOCATION	UNDER HOOD - R. SIDE	LOCATION	ENGINE CRANK CASE ~~L. FRAME RAIL~~
~~HOOD~~ PRE-CLEANER	DONALDSON	LUBE. 2ND STAGE	DELUXE
LOCATION	OVER HOOD - R. SIDE	TYPE	CARTRIDGE
FUEL OIL - 1st & 2nd STAGE	~~COMMERCIAL FUL-FLO~~ AC	LOCATION	DASH - R. SIDE
LOCATION	ENG. LEFT SIDE		

COOLING

RADIATOR	COPPER CORE - CAST SHELL	FAN:	
TYPE	FLAT TUBE AND FIN	DIAMETER	22"
FRONTAL AREA	919 SQ. IN.	NO. OF BLADES	6
MOUNTING	FLEX. RUBBER PAD. SPRINGS	PROJECTED DEPTH	2-3/8"
WATER PUMP:		SPEED	1.25 X ENG. RPM
TYPE	~~CENTRIFUGAL~~ VANE		
DRIVE	GEAR		

EXHAUST

MUFFLER	DONALDSON	MOUNTING	VERTICAL THRU HOOD

CLUTCH

MAKE	LIPE-ROLLWAY	FRICTION AREA	226 ~~365~~ SQ. IN.
TYPE	NON-ADJ. SINGLE PL.	TORQUE CAP. @ 50% RESERVE	625 ~~850~~ FT. LB.
DIA. OF FACING	15-1/2"	CONTROL	MANUAL - AIR ASSIST.

TRANSMISSION

MAKE & MODEL	FULLER 5F1220	FORWARD SPEEDS	5
MOUNTING	UNIT WITH ENGINE	REVERSE SPEEDS	1
GEARING	HELICAL CONSTANT MESH		

FRONT AXLE

MAKE . . . . . SHULER
MODEL . . . . . FA12-15 ~~4000~~
TYPE . . . . . ELLIOTT FORGED "I" BEAM
MOUNTING . . . . . 2 RADIUS RODS TO FRAME
SPINDLE DIAMETER:
AT INNER BEARING . . . . . 2-7/8"
AT OUTER BEARING . . . . . 2-1/8"

DIMENSIONS AT CENTER SECTION:
HEIGHT . . . . . 4-3/8"
FLANGE WIDTH . . . . . 3-1/2"
FLANGE THICKNESS . . . . . 3/4"
WEB THICKNESS . . . . . 5/8"

DRIVE AXLE

EUCLID HEAVY DUTY, FULL FLOATING DOUBLE REDUCTION WITH SINGLE REDUCTION DIFFERENTIAL AND FINAL REDUCTIONS IN EACH WHEEL CONSISTING OF FLOATING PLANETARY SYSTEMS.

DIFFERENTIAL ASSEMBLY OF SPIRAL BEVEL RING GEAR AND PINION TYPE TRANSFERRING DRIVE FROM DRIVELINE TO FULL FLOATING AXLE SHAFTS.

EACH EUCLID PLANETARY FINAL REDUCTION BETWEEN DIFFERENTIAL AND WHEEL CONSISTS OF SUN PINION SPLINE MOUNTED ON AXLE SHAFT, PLANETARY INTERNAL RING GEAR MOUNTED ON STATIONARY CARRIER, AND THREE INTERMEDIATE PLANET PINIONS MOUNTED ON DRIVE WHEEL COVER.

AXLE HOUSING MOUNTED SEMI-RIGID TO FRAME SIDE MEMBERS THROUGH 8 SHOCK SPRINGS ON MOUNTING BOLTS.

MODEL NO. . . . . EUCLID 32RA
DIFF. CARRIER . . . . . EATON 2590-S
RED. DIFF. (1ST) 3.09:1
RED. PLANETARY (2ND) 5.2:1
TOTAL RED. 16.07:1

AXLE DIA. . . . . 2"
SPINDLE DIA.
AT INNER BRG. . . . . 7"
AT OUTER BRG. . . . . 6-7/8"

BRAKES

EMERGENCY:
MAKE . . . . . AMERICAN CABLE
TYPE . . . . . 14 "DISC - 2 SHOE
FRICTION AREA . . . . . 45 SQ. IN.
LOCATION . . . . . REAR OF TRANS.
SHOE DIA. OUTER . . . . . 13-3/4"
SHOE DIA. INNER . . . . . 8-3/4"
SERVICE:
NO. OF WHEELS . . . . . 2 DRIVE
TYPE . . . . . 2 SHOE INT. EXPAND.
ACTUATION . . . . . AIR
DRUMS . . . . . CAST
AIR COMPRESSOR:
MAKE . . . . . BENDIX-WESTINGHOUSE
CAPACITY . . . . . 7-1/4 CU. FT. PER MIN.

STEERING BRAKES . . . . RT. ~~AND~~ OR LEFT DRIVE WHEELS
CONTROL LOCATION . . . . . 2-WAY VALVE STEER. COL.
DRIVE WHEEL:
MAKE . . . . . EUCLID
SIZE . . . . . 20" x 6"
LINING AREA . . . . . 536 SQ. IN.
DRUM AREA . . . . . 754 SQ. IN.
LINING THICKNESS . . . . . 3/4"
AIR RESERVOIR:
NO. OF TANKS 2
SIZE . . . . . ~~6-1/8" x 27"~~ 8" X 26"

WHEEL ASSEMBLIES

FRONT:
TYPE WHEELS . . . . . CAST STEEL
TIRE SIZE . . . . . 12:00 x 24 - 14 PLY
RIM SIZE 9.00V
OPT . . . . . 11:00 X 24 - 12 PLY

DRIVE:
TYPE WHEELS . . . . . CAST STEEL
TIRE SIZE . . . . . 24.00 x 25 - 18 PLY
RIM SIZE . . . . . 17:00" X 25" $170
OPT. ~~(TIRE SIZE)~~ . . . . . 21:00 X 25 - 20 PLY

SPRINGS

FRONT ONLY
TYPE . . . . . SEMI-ELLIPTIC
MOUNTING . . . . . FREE-FLOATING
NO. OF LEAVES 14

LENGTH (PAD CENTERS) . . . . . 45"
WIDTH . . . . . 4"
THICKNESS . . . . . 3/8"

DRIVELINE AND UNIVERSALS

MAIN:
MAKE & MODEL . . . . . ALMETAL 700 SERIES / TYPE . . . . . TUBULAR

STEERING GEAR

MAKE & MODEL . . . . . Ross TW-74 ~~GEMMER 500~~ STEERING WHEEL DIA. . . . . 20" ~~22"~~
STEERING RATIO . . . . . ~~20.4:1~~ 27-23-27 : 1 variable Type . . . . . Twin Lever

SEATS

DRIVER . . . . . INDIVIDUAL SEAT WITH NAUGAHYDE COVERED AIR FOAM PILLOW. SEAT MOUNTED ON ADJUSTABLE SPRINGS CONTROLLED BY DOUBLE ACTING HYDRAULIC SHOCK ABSORBER. ADJUSTABLE FORE AND AFT TO SUIT DRIVER.

PROTECTIVE GUARDS

FRONT AXLE - MOTOR PAN - TRANSMISSION . . . . . 3/8" ~~1/4"~~ REINFORCED STEEL PLATE
RADIATOR . . . . . HEAVY GAUGE EXPANDED METAL
HEADLIGHTS . . . . . 3/8" ~~1/4"~~ PLATE WELDED TO RADIATOR GUARD

FENDERS

FRONT . . . . . FORMED 1/8" STEEL PLATE MOUNTING . . . . . BOLTED TO FRAME RAILS

FRAME

FORMED FRAME WITH VERTICALLY OFFSET SHIP CHANNEL SIDE MEMBERS COMBINED FRONT BUMPER AND TORQUE MEMBER, FRONT AND REAR SUPPORTS FOR ENGINE, FRONT SPRING PADS, REAR TUBULAR TORQUE MEMBER, REAR DECK ASSEMBLY AND REAR HITCH. ~~ALL WELDED CONSTRUCTION~~.

FRAME RAIL DIMENSIONS:
MAKE . . . . . EUCLID
TYPE . . . . . SHIP CHANNEL
Construction . . . . . All Welded
SIZE . . . . . 9" @ 25.4 LBS. 3.1/2" x 9/16" FLANGE x 7/16" WEB
SECTION MODULUS 19.4

TRAILER HITCH

MAKE . . . . . EUCLID
MODEL . . . . . 34 H
TYPE . . . . . FULL UNIVERSAL
LONGITUDINAL SHAFT . . . . . 2" DIA.
TRANSVERSE SHAFT . . . . . 2" DIA.
KING PIN . . . . . 4.3/8" DIA.

THE FOLLOWING EQUIPMENT IS STANDARD ON THIS UNIT:

~~ETHER COLD START KIT~~
✓ EMERGENCY STOP
~~STARTER SWITCH~~
✓ HAND THROTTLE CONTROL
✓ AMMETER
✓ AIR PRESSURE GAUGE
✓ DIMMER SWITCH
~~FUEL OIL PRESSURE PUMP~~
✓ ENGINE TEMPERATURE ~~GAUGE~~ INDICATOR
✓ ~~ENGINE~~ LUB. OIL PRESS. GAUGE
✓ AIR HORN
✓ VOLTAGE CONTROL
~~LUBRICATING oil Press~~
✓ TACHOMETER & LOCK
✓ SET OF TOOLS
✓ INSTRUCTION MANUAL
✓ SERVICE PARTS BOOK
✓ EUCLID GREEN ENAMEL
✓ Compression RELEASE
✓ PRIMING HAND PUMPS

SERVICE DATA CAPACITIES

WATER COOLING SYSTEM . . . . . 57 QT.
FUEL TANK . . . . . 62 GAL.
CRANKCASE (DRY FILL) . . . . . 6 GAL.
TRANSMISSION . . . . . 29 PT.
REAR AXLE . . . . . 53 LB.

TRAILER

THE ASSEMBLY CONSISTS OF THE FOLLOWING ITEMS: DRAWBAR, HOPPER, CENTER PARTITION, AXLE SUPPORT, BUMPER ASSEMBLY, DOORS AND HINGES, AND DOOR OPERATING MECHANISM.

DRAWBAR

TWO FABRICATED " I " BEAMS WELDED TO KING PIN BEARING AT FRONT END, AT REAR TO REINFORCED HOPPER SIDES.

HOPPER

MAKE . . . . . EUCLID MODEL 89W
TYPE . . . . . BOTTOM-DUMP WITH WIDTH AND DEPTH GREATER AT DRAWBAR END THAN AXLE END.
CAPACITY:
STRUCK MEASURE . . . . . 13.0 CU. YDS.
HEAPED ~~LOAD:~~
~~CONSERVATIVE RATING~~ (3:1 SLOPE) . . . . . 15.1 CU. YDS.
~~S.A.E. RATING 1:1 SLOPE~~ . . . . . 10.8 CU. YDS.
CONSTRUCTION . . . . . SIDE PLATES 9/16" STIFFENED WITH 4-7/8" x 5" WELDED BARS. FRONT PLATE 3/8", REAR PLATE AND COVER PLATE 3/8". TOP EDGES OF HOPPER PLATES REINFORCED WITH 3/8" BENT PLATE. RECTANGULAR DOOR OPENING: 11' 4" BY 5' 4".

CENTER PARTITION

AN ALL WELDED BOX MEMBER SUB-ASSEMBLY WHICH IS BOLTED THRU SIDE PLATES TO OUTER STIFFENING CHANNELS AT APPROXIMATELY CENTER OF HOPPER.

AXLE SUPPORT

LEFT AND RIGHT TRIANGULAR BOX SECTIONS WHICH ARE WELDED TO HOPPER SIDE AND REAR PLATES AND REINFORCED BY A 5/8" THICK TRANSVERSE BRACE PLATE FORM THE AXLE FRAME. A CAST STEEL AXLE BRACKET IS WELDED INTO EACH BOX SECTION.

REAR BUMPER

1/2" PLATE BENT INTO " U " SHAPE ~~10-1/4" x 6-7/8" x 92"~~ BRACED TO REAR OF HOPPER COVER PLATE BY 3 x 3 x 1/2" ANGLES AND TO BOTTOM OF AXLE FRAME BY 3/8" PLATE BENT INTO " U " SHAPE.

DOORS AND HINGES

MAIN DOOR PLATE, 1/2" THICK REINFORCED ALONG ONE EDGE BY CHANNEL ~~6" @ 10.75#~~ 7" @ 14.75# AND SIX STIFFENING BARS 5/8" THICK. OTHER EDGE REINFORCED WITH 4-1/2" PLATE FOR HINGE MOUNTING. EIGHT CAST STEEL THREE PIECE HINGES. 5/8" DIAMETER HINGE PINS.

CABLES AND SHEAVES

CONTINUOUS CABLE OF PREFORMED PLOW STEEL WIRE, 9/16" DIA., 6 STRANDS x 37 WIRES PER STRAND WITH WIRE ROPE CENTER. SHEAVES --CAST STEEL, MOUNTED ON ROLLER BEARINGS.

DOOR OPERATING MECHANISM

EUCLID MODEL 17A--AN AIR CONTROLLED MECHANICAL DOOR CLOSING DEVICE. SPECIAL TWO-WAY AIR VALVE ON STEERING COLUMN OF TRACTOR CONTROLS OPERATION OF WHEEL WIND. CLOSING OF DOORS IS ACCOMPLISHED BY BRINGING TIRE CONTACT WHEEL INTO CONTACT WITH LEFT TRAILER TIRE. WHEN DOORS ARE FULLY CLOSED, WHEEL WIND AUTOMATICALLY DISENGAGES. RELEASE OF CABLE DRUM LOCK BY OPERATION OF AIR CONTROL VALVE PERMITS DOORS TO OPEN RAPIDLY.

BRAKES

SERVICE:
MAKE . . . . . EUCLID
TYPE . . . . . 2 SHOE - INT. EXPAND.
NO. OF WHEELS 2
ACTUATION . . . . . AIR
AIR RESERVOIR:
NO. OF TANKS 1
SIZE . . . . . 20" x 6"
LINING AREA . . . . . 536 SQ. IN.
DRUM AREA . . . . . 754 SQ. IN.
LINING THICKNESS . . . . . 3/4"
SIZE . . . . . 8" x 26"

AXLE AND WHEEL ASSEMBLY

AXLE STUBSHAFT DIA.:
- AT INNER BRG. . . . . 3-3/4"
- AT OUTER BRG. . . . . 3-3/8"

TYPE WHEELS. . . . . CAST STEEL
TIRE SIZE. . . . . 24.00 x 25 - 18 PLY
OPTIONAL . . . . . 21.00 x 25 - 20 PLY
RIM SIZE . . . . . 17.00 x 25
#1705

WEIGHTS

	OPT: 21.00 x 25 - 18 PLY TIRES.	24.00 x 25 - 18 PLY TIRES
TRACTOR WEIGHT	17,670 LBS	17,~~670~~ 18,100 LBS.
TRAILER WEIGHT	17,270 "	17,~~900~~ "
NET WEIGHT. . NO LOAD . . TOTAL	~~34,940~~ "	35,800 "
DISTRIBUTION. . . TOTAL NET WEIGHT		
FRONT AXLE	9200 "	9,200 "
DRIVE AXLE	13,970 "	14,~~400~~ "
TRAILER AXLE	11,770 "	12,200 "
PAYLOAD.	40,000 "	40,000 "
GROSS WEIGHT WITH PAYLOAD . . TOTAL	74,940 "	75,800 "
DISTRIBUTION . . TOTAL GROSS WEIGHT		
FRONT AXLE	11,000 "	11,800 "
DRIVE AXLE	31,970 "	32,~~400~~ "
TRAILER AXLE	31,970 "	32,~~400~~ "

GENERAL DIMENSIONS

WHEEL BASE:
- FRONT TO DRIVE AXLE . . . . . 9' 5"
- DRIVE TO TRAILER AXLE . . . . . 20' 6-5/8"
- FRONT TO TRAILER AXLE . . . . . 29' 11-5/8"

EXHAUST STACK TO GROUND . . . . . 9' 2-1/4"
TRACTOR LENGTH . . . . . 16' 1-5/8"
TRAILER LENGTH . . . . . 25' 10-5/8"
COMPLETE OA LENGTH . . . . . 38' 9-3/4"
OVERALL WIDTH . . . . . 10' 9-7/8"
OA HEIGHT OF HOPPER. 9' 7-1/2"

HOPPER LEN. INSIDE AT TOP . . . . . 14' 1-5/8"
HOPPER WIDTH INSIDE AT TOP . . . . . 7' 3-1/8"
DEPTH AVERAGE . . . . . 4' 2-3/4"
FRONT AXLE CLEARANCE . . . . . 1' 0-3/4"
DRIVE AXLE CLEARANCE . . . . . 2' 0-1/8"
TRAILER REAR CENTER . . . . . 3' ~~0~~ 8"
~~WIDTH REQ'D FOR~~ TURNING CIRCLE DIA
~~1800 NON-STOP TURN~~ FRONT WHEEL TRACK ~~40~~ 52'6"
WITH STEER. BRAKES . . . . . ~~38~~ 48'

PERFORMANCE DATA

ENGINE . . . . . MODEL 6094 GENERAL MOTORS ~~SERIES 6-71~~
RATED HORSEPOWER AT 1800 RPM 190
RATED TORQUE AT 1800 RPM . . . . . 550 FT. LB.
COEFFICIENT OF FRICTION - TIRES TO GROUND 0.8
ROLLING RESISTANCE . . . . . 40 POUNDS /TON
MECHANICAL EFFICIENCY - ENGINE TO GROUND 81%
TIRE SIZE: ~~24~~ 25:00 X 25 - ~~18~~ 20 PLY . . . . . 30.5 IN.
24:00 X 25 - ~~20~~ 18 PLY . . . . . ~~30.0~~ 32.7 IN.

GRADE % (%) : $\frac{972 \times \text{ENGINE TORQUE} \times \text{TOTAL REDUCTION}}{\text{ROLLING RADIUS} \times \text{GROSS WEIGHT}}$ — ROLLING RESISTANCE (2%)

PERFORMANCE CHART
WITH
WITH 24:00 X 25 - 18 PLY TIRES

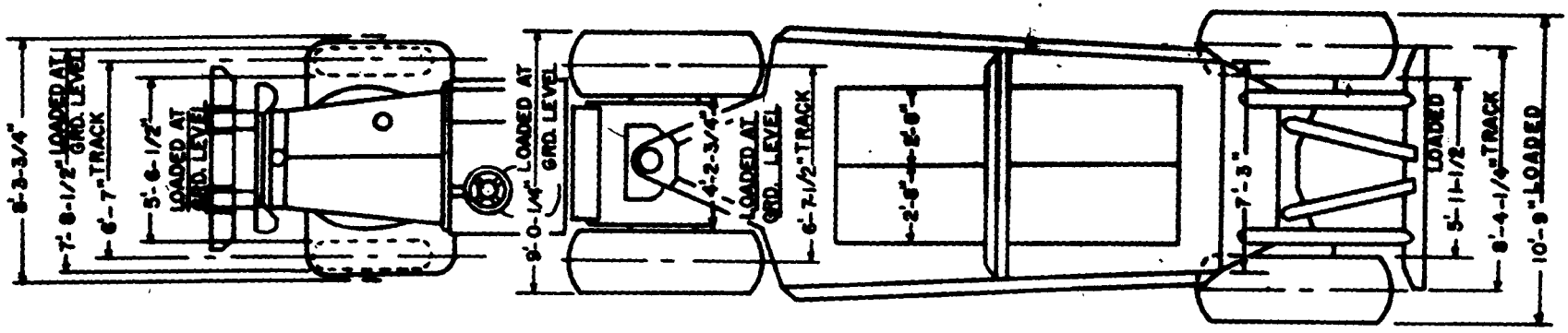
TRANSMISSION GEAR SELECTION	TRANSMISSION RATIOS	OVERALL RATIOS	TRAVEL SPEED MPH@1800 RPM	% GRADE ABILITY EMPTY	% GRADE ABILITY LOADED
1ST	6.54:1	105.0:1	3.~~4~~3	23.~~7~~	~~20~~ 31
2ND	3.356:1	53.9:1	6.~~6~~5	22.~~0~~	9.~~5~~
3RD	1.748:1	28.0:1	12.~~6~~5	~~10~~.6	4.~~0~~
4TH	1.00:1	16.07:1	~~21.0~~ 21.8	5.~~3~~	1.~~4~~
5TH	.636:1	10.2:1	34.~~8~~4	~~2~~.6	~~0~~.5
REVERSE	5.06:1	81.3:1	4.~~4~~3	23.~~7~~ 22	~~20~~

REGISTRAR
SUPREME COURT.

PERFORMANCE CHART
21:00 X 25 - 18 PLY TIRES

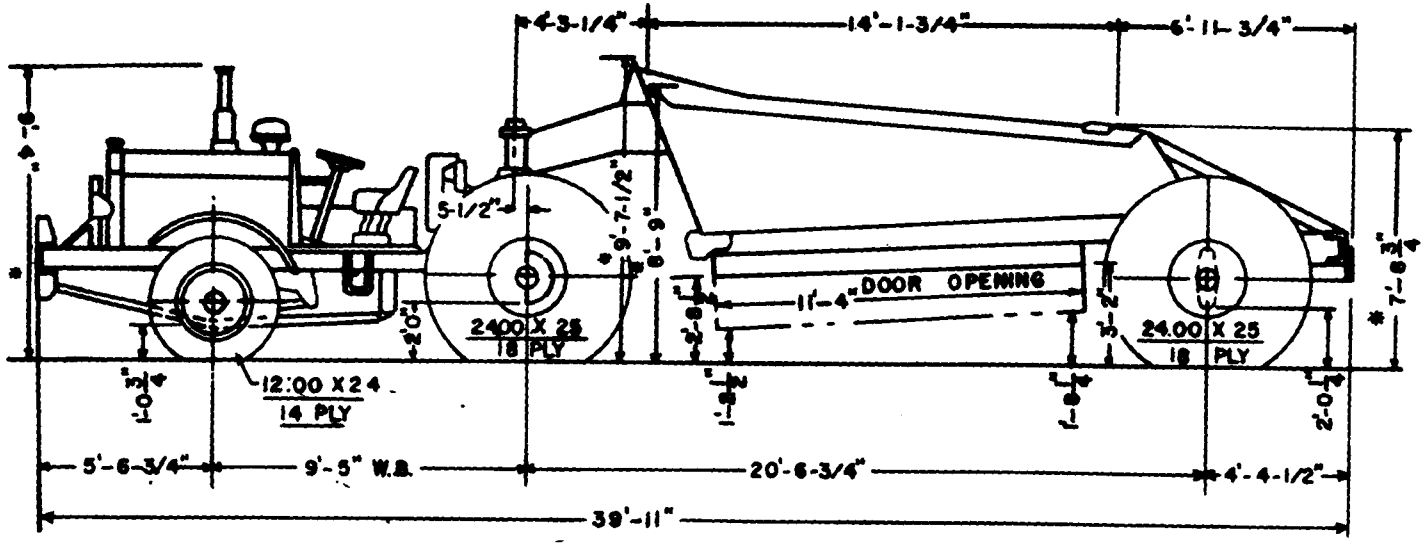
TRANSMISSION GEAR SELECTION	TRANSMISSION RATIOS	OVERALL RATIOS	TRAVEL SPEEDS MPH@1800 RPM	% GRADE ABILITY EMPTY	% GRADE ABILITY LOADED
1ST	6.54:1	105:1	3.1	28.7	22.1
2ND	3.356:1	53.9:1	6.0	28.5	10.1
3RD	1.748:1	28.0:1	11.6	12.6	4.1
4TH	1.00:1	16.07:1	20.1	6.7	1.7
5TH	.636:1	10.2:1	32.0	3.0	0.4
REVERSE	5.06:1	81.3:1	4.0	28.5	~~16.6~~ 17

IN GRADE COMPUTATIONS NO RIM PULL IN EXCESS OF TRACTIVE ABILITY WAS USED. THE ROLLING RESISTANCE OF 40 POUNDS PER TON (2%) USED IN THESE FIGURES IS BASED ON A HARD SMOOTH DIRT AND GRAVEL ROAD SURFACE FREE OF LOOSE GRAVEL. ALLOWANCES FOR ADDITIONAL ROLLING RESISTANCE MUST BE MADE IF SUCH A ROAD SURFACE IS NOT MAINTAINED. AN AVERAGE COEFFICIENT OF FRICTION OF 0.6 IS APPROXIMATELY CORRECT FOR GOOD ROAD CONDITIONS. THE MOISTURE AND TYPE OF ROAD SURFACE WILL CHANGE THIS FIGURE CONSIDERABLY.



13 CU. YDS.— STRUCK CAPACITY

15.1 CU. YDS.— HEAPED CAPACITY



70FDT WITH 89 W TRAILER

71FDT WITH 89 W TRAILER

* LIGHT—
ALL OTHER DIMENSIONS LOADED

H.A.L.1. - LETTER, B.L. WILLIAMS & CO., LTD., to APPELLANTS

Exhibits

H.A.L.1.

Letter - B.L. Williams & Co. Ltd., to Appellants.

12th November, 1951.

13, Port Royal St.
Kingston, Jamaica, B.W.I.

12th November, 1951.

Messrs. Kingston Wharves Ltd.,
Harbour Street,
Kingston.

Dear Sirs:

Under cover of this please find cheque for the amount of £139. 6. 5. to cover wharfage on a shipment of :-

5 Dump wagons
5 Tractors
3 Boxes (parts)
1 piece "

ex "Alcoa Ranger" reported 5/11/51.

This amount is being made under protest as we feel that the Wharfage should be calculated on the first two items as carriages.

Yours faithfully,

/s/ B.L. WILLIAMS & CO. LTD.

HAL/61.

P.S. For account of Reynolds Jamaica Mines Ltd.,
B/L M.6606.

Exhibits

N.B.1.

Extract from Sheet No. 24 of B. L. Williams & Co. Ltd's Summary of Goods cleared 19th July 1951.

N.B.1. - EXTRACT FROM SHEET NO.24 OF B.L. WILLIAMS & CO. LTD'S SUMMARY OF GOODS CLEARED.

DATE	CONSIGNEE	CONSIGNOR	SUPPLIER	MARKS	NOS.	INDENT	GOODS	SHIP	CLEARED	DELVD.	REMARKS
19/7/51	Reynolds Jamaica Mines	Reynolds Jamaica Mines	Euclid Memphis Sales Inc.	Add	1/22 125	979 R.J.M.	6 pcs. Tractor & Dumps	Alcoa Clipper	21/7/51	23/7/51	Masterton

N.B.2. - EXTRACT FROM SHEET NO. 53 of B.L. WILLIAMS & CO., LTD'S., INVOICE REGISTER

Exhibits.

N.B.2.

Extract from Sheet No.53 of B.L. Williams & Co., Ltd's., Invoice Register.

23rd July,1951.

July 23	Reynolds	Tractor Dumps etc.	£7.14.11.

IN THE PRIVY COUNCIL No. 14 of 1957

ON APPEAL

FROM THE COURT OF APPEAL OF JAMAICA

B E T W E E N:

KINGSTON WHARVES LIMITED (Defendants) Appellants

- and -

REYNOLDS JAMAICA MINES LIMITED (Plaintiffs) Respondents

RECORD OF PROCEEDINGS

CLIFFORD-TURNER & CO.,
11, Old Jewry,
London, E.C.2.
Solicitors for the Appellants.

A.F. & R.W. TWEEDIE,
5, Lincoln's Inn Fields,
London, W.C.2.
Solicitors for the Respondents.