

S. 2203

S. 2203.

1. Report from the Committee on Petitions relating to East India Shipping, 1817. V2, L. Lst A 817 3 pp.
2. Minutes of the Evidence taken before the Select Committee of the H.C. on Petitions relating to East India Built Shipping. 1814. V2, L. Lst A 814 656 pp.

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V2, L. 15E

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REPORT

S-203

From the Committee on Petitions relating to
East India Shipping.

Ordered, by The House of Commons, to be Printed, 22 May 1817.

THE COMMITTEE to whom the Petition of the United Company of Merchants of England trading to *The East Indies* was referred, to examine the Matter thereof, and report the Facts, with their Observations thereupon, to The House; and to whom the Petition of the there undersigned Proprietors of *India* Stock, and also the several Acts for regulating the manner in which the United Company of Merchants of England trading to *The East Indies* should take up Ships for their regular Service, were likewise referred;—HAVE, pursuant to the Order of the House, examined the Matters to them referred, and have agreed to the following REPORT:

ACCORDING to the Accounts laid before Your Committee, on the part of the owners of the several ships enumerated in the Petition referred to them, it appears that very considerable losses have been incurred by the owners of almost all the said ships in the execution (so far as the same have been executed) of their respective contracts with the Company; and that further losses are likely to be incurred by them in the fulfilment of such part of those contracts as remain to be fulfilled. In these accounts (which your Committee have had no other means of verifying than by the evidence of the owners or their agents) the losses stated to have been incurred by the ship owners are traced back to the commencement of their respective contracts, and are attributed to various causes. But as the Petition referred to the consideration of Your Committee prays only for permission to make compensation for such losses as have arisen or may arise from the inadequacy of the fixed peace freight upon which such contracts have respectively been made, in respect to voyages entered upon or to be entered upon subsequently to the conclusion of the war,—it is with respect to such losses only that Your Committee conceive it to be their duty to offer any observations to the House.

It has been proved to Your Committee, from the records of the Company, and by the evidence of their officers, that the lowest rate of peace freight at which the Company have been able to contract for building regular ships, since the conclusion of the war, exceeds £. 26 per ton (without kentledge and for a direct China voyage.) The medium rate of peace freight at which the ships enumerated in the petition are engaged, is about £. 18 per ton (including kentledge, and without distinction as to direct or circuitous voyage) being thus about £. 8 below the lowest actual rate at the present time.

Notwithstanding the explicit language of the Act of 1799, by which the present shipping system was legally established, and notwithstanding the clause in the Act of 1803, in which it was expressly declared that “nothing therein contained” should be construed hereafter to recognize or admit any claim “in the owners of any ship contracted for, for any allowance in addition to the fixed rate of peace freight, as settled in their respective contracts, on account of any variation which may from time to time prevail in the price of stores, &c.” it appears from the statements of several ship owners, that expectations have been entertained that some specific relief would be granted to them in like manner as by the Act of 1803, in the event of the expenses of the outfit of a ship on the return of peace proving to be greatly disproportionate to the rate of peace freight at which the contract for such ship was made.

It seems clear however, that such expectations can only be justified (if in any case) in the cases of those ships whose contracts were framed in strict

conformity to the Act of 1799, on the principle of an invariable peace freight. And Your Committee is therefore of opinion, that the case of the six ships contracted for by the Company in the year 1811, viz. Herefordshire, Atlas, Bridgewater, General Harris, Vansittart, and General Kyd, does not come within the scope of the prayer of the petition. Those contracts were made on tenders of fixed rates of peace freight, but with express stipulations, that if the price of outfit, whether in peace or war, should exceed the scale of prices specified in the Company's "Terms" on which the tenders were made, the owners should receive the excess of the charges on each voyage; and on the other hand, that if the price of outfit should fall below the said scale of prices, the owners should account with the Company for such difference.

There are four other of the ships enumerated in the petition of the class called "Regular Extra Ships," three of which were engaged for eight voyages, and one for six, all of which are of a smaller size than the regular ships, and of an inferior rate of equipment, which were not bound by their contracts to serve in warfare, and which are now going on their last voyage, having had the benefit of war allowances during all the preceding voyages. Respecting these four ships, no evidence has been tendered to Your Committee; and Your Committee therefore are not prepared to say how far they may be proper objects of any such relief as is prayed for.

Setting aside therefore ten ships of the thirty-four to which the Petition refers, Your Committee have to observe, that the cases of the other ships in the list in the petition, twenty-four in number, all of which were taken up at a fixed peace freight for six voyages, and the owners of which complain, that they should be greatly injured by the performance of the remaining voyages, at the contract rate of freight, are cases upon which Your Committee have found real and great difficulty in forming an opinion.

Your Committee are decidedly of opinion, that it is expedient that the principles of open competition and fixed tender for six voyages, which have been long sanctioned by the Legislature, should be maintained unimpaired; and therefore that it is not desirable to resort, though but at distant periods, to measures producing even a temporary relaxation of those principles. But Your Committee, on the other hand, cannot but acknowledge, that the long duration of war, and the extraordinary price of articles of equipment continuing after the conclusion of peace, have constituted a state of things, under which there might be great hardship in compelling the owners of those twenty-four ships to a literal execution of their contracts.

At the same time Your Committee cannot recommend that an unlimited discretion should be given to the Court of Directors, to afford relief to the owners of such ships for the voyages remaining to be performed under their contracts; still less, that the power of Parliament should be exercised to dissolve by authority and without the consent of both parties, such existing contracts. The object of Your Committee would be to devise some measure, which might afford a certain degree of relief to the ship owners, maintaining at the same time a due regard to the reciprocal obligations of the existing contracts, but not to afford even this partial relief, without suggesting such an improvement in the shipping system, as may tend to prevent the recurrence of similar difficulties, and similar applications.

With these views, the first course which occurred to Your Committee, was to recommend to the House,—

1st. To permit the dissolution of the existing contracts, by mutual consent (in each case) of the Company and the ship owner; and,

2dly. To permit the Company to enter into new contracts with the ships whose contracts should be thus dissolved, for the number of voyages of each contract which should remain unperformed.

But as the re-engagement of the ships so released must be optional with the Company, and as those ships are of a class adapted to no other service, the risk of having them thrown out of employment might counterbalance the advantage of relief to be obtained by the ship owners from the release of their contracts; and on the other hand, as a very large charge has been incurred by the Company for the building of the ships in question, and for the equipment of them (in respect to such part of their stores as does not require to be renewed every voyage) in the contemplation of having the use of the ships for the whole period of their respective contracts, the Company would lose the benefit of their

their lien upon the ships, if they were to be given up to their owners to be treated for anew. From these opposite considerations, it seems probable, that a permission to dissolve the contracts by mutual consent would not be acted upon.

The only course, therefore, by which, as appears to Your Committee, relief can be given to the ship owners, consistently with the principles of the shipping system, would be, by allowing permission to such ship owners as shall pay the penalty of £.5,000, attached to the non-performance of their contracts on the original terms, to receive some improved rate of freight for the remainder of their voyages; such increase to be in no case greater than £.8 per ton, being the difference between the average rate of freight as stated in the petition, and £.26 per ton; and in no case greater in the aggregate, than to make up the total freight to £.26 per ton, being the lowest freight contracted for since the peace; and this rate to be reducible from voyage to voyage (with respect to such ships as have more than one voyage to perform) in proportion to any reduction which may take place in the prices of stores and cost of outfit, below the standard of 1816.

It has not escaped the observation of Your Committee, that as some of the ships in question have more voyages to perform on their existing contracts than others, the payment of the penalty on the one hand, and the rate of relief on the other, will affect them in different proportions. But it does not appear to Your Committee, that there is any thing in this inequality which is really unfair. Those ships which have the fewest voyages to perform, have of course received for a greater number of voyages the benefit of war allowances; and those ships whose penalty of £.5,000 will be spread over a greater number of unperformed voyages, have had comparatively but little of the benefit, and are subject to a comparatively greater proportion of the burthen, of their contracts.

It is the opinion of Your Committee, that as a check upon the discretion which must necessarily be left to the Court of Directors in the distribution of relief to the several ships within the maximum proposed to be allowed, the proceedings of the Court of Directors, in each specific case, should be reported from time to time to Parliament.

Your Committee, however, cannot venture to recommend even this qualified departure from the established principle of fixed peace freight, without submitting to the House at the same time, whether it might not be expedient to revise and consolidate the several laws relating to the shipping system of the Company, with a view to the introduction of such improvement in them, as may effectually provide against the recurrence, under any circumstances, or any pretext whatever, of a similar deviation from that system in time to come.

This object might possibly be effected, either by a revision of the contract prices at the commencement of the fourth or repairing voyage, or by an annual exhibition at the India House of a scale of prices of such articles of naval outfit as are renewable each voyage; in reference to which scale the rate of freight of each ship might be adjusted, whether in peace or war, and the amount thereof either raised or lowered, previous to the commencement of any voyage, in a given ratio to the rise or fall of prices, in the event of such rise or fall exceeding a certain specified per centage. These however are points upon which Your Committee do not presume, nor do they feel themselves authorized, under the reference made to them, to deliver an opinion; but they are points which have forced themselves upon the observation of Your Committee, in the course of their investigation, and which they think it their duty to recommend to the future consideration of the House.

Your Committee are of opinion, that one or other of the regulations which they have suggested (if not liable to objections in practice, of which Your Committee are not aware) would preserve to the Company the advantages of open competition, and of an ascertained *rate* of freight in proportion to prices both in peace and war; would secure the ship owners against such losses as those to which they are now represented to be liable; and would save Parliament from the difficulty in which it is, for the second time, involved, of either refusing to interfere in cases of such peculiar hardship, as those now submitted to it, or impairing by repeated relaxations the efficacy of the system established under its sanction and authority.

22 May
1817.

R E P O R T
FROM
COMMITTEE ON PETITIONS RELATING
TO EAST INDIA SHIPPING.

Ordered, by The House of Commons, to be Printed,
22 May 1817.

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MINUTES OF THE EVIDENCE

TAKEN BEFORE THE SELECT COMMITTEE OF

THE HOUSE OF COMMONS

ON PETITIONS RELATING TO

EAST-INDIA-BUILT SHIPPING.

[COMMUNICATED BY THE COMMONS TO THE LORDS.]

Ordered to be printed 20th July 1814.

(72 of 1813-14 H. of Lords)

~~P. 115~~
Collection of Papers

V2, L. Lst

A8H

NAMES OF WITNESSES EXAMINED.

I.	<i>Tuesday, 19th April,</i>	-	Mr. John Hillman	-	-	Page 1
	<i>Wednesday, 20th</i>	-	Nathaniel Atchefon Esq.	-	-	13
		-	Mr. James Hughes	-	-	17
	<i>Thursday, 21st</i>	-	Do.	-	-	30
		-	Mr. Robert Fergusson	-	-	32
		-	Mr. Charles Carter	-	-	36
		-	Charles H. Turner Esq.	-	-	42
	<i>Friday, 22d</i>	-	Do.	-	-	48
		-	Mr. Thomas Barnes	-	-	53
		-	Mr. William Butler	-	-	58
	<i>Monday, 25th</i>	-	Mr. James Hughes (2d Time)	-	-	63
		-	James Walker Esq.	-	-	ibid.
		-	Mr. Thomas Todd	-	-	66
		-	Mr. John Milner	-	-	70
II.	<i>Tuesday, 26th April</i>	-	James Walker Esq. (2d Time)	-	-	100
		-	Mr. William Fearnell	-	-	111
III.	<i>Wednesday, 27th</i>	-	John Pascal Larkins Esq.	-	-	118
		-	Mr. Isaac Sparrow	-	-	126
	<i>Thursday, 28th</i>	-	Mr. William Simms	-	-	132
		-	Abel Chapman Esq.	-	-	139
IV.	<i>Monday, 2d May</i>	-	Mr. James Alexander	-	-	148
V.	<i>Tuesday, 3d</i>	-	Mr. William Driver	-	-	159
		-	Mr. John Morris	-	-	166
VI.	<i>Wednesday, 4th</i>	-	Mr. John Kershaw	-	-	182
VII.	<i>Thursday, 5th</i>	-	Mr. Thomas Alexander	-	-	199
	<i>Friday, 6th</i>	-	Mr. Abraham Driver	-	-	211
VIII.	<i>Monday, 9th</i>	-	Mr. Christopher Richardson Junior	-	-	234
		-	Mr. William Preston	-	-	244
IX.	<i>Tuesday, 10th</i>	-	Mr. Edward Ellis	-	-	253
		-	James Walker Esq. (3d Time)	-	-	267
X.	<i>Thursday, 12th May</i>	-	Mr. Benjamin Castledine	-	-	291
		-	Mr. Major Bull	-	-	294
		-	Mr. Jacob Read	-	-	300
XI.	<i>Friday, 13th</i>	-	Mr. John Barnard	-	-	303
		-	Mr. Robert Harvey	-	-	304
		-	Mr. John Wickens	-	-	315
XII.	<i>Monday, 16th</i>	-	Mr. John Morice	-	-	318
	<i>Thursday, 17th</i>	-	Mr. Thomas Noakes	-	-	329
XIII.	<i>Wednesday, 18th</i>	-	Mr. Henry Dawes	-	-	350
	<i>Thursday, 19th</i>	-	Mr. Cornelius Trufitt	-	-	364
		-	Mr. William Johnson	-	-	370
XIV.	<i>Friday, 20th</i>	-	Mr. William Johnson (2d Time)	-	-	412
		-	Mr. Samuel Jordan	-	-	419
		-	Mr. Isaac Sparrow (2d Time)	-	-	425
		-	Mr. Thomas Noakes (2d Time)	-	-	426
XV.	<i>Monday, 23d</i>	-	Mr. Henry Dawes (2d Time)	-	-	429
		-	Mr. Thomas Noakes (3d Time)	-	-	430
(72.)			[A 2]			

NAMES OF WITNESSES EXAMINED.

XVI.	Monday, 6th June	- Mr. Robert Sepping	- Page 441
XVII.	Tuesday, 7th June	- Mr. Benjamin Ramage	- 491
	Wednesday, 8th	- William Dennison Esq.	- 501
		- Henry Hall Esq.	- 506
		- Mr. William Stovald	- 510
XVIII.	Friday, 10th	- Mr. John F. Mitchell	- 518
	Monday, 13th	- Mr. Benjamin Hobbs	- 532
		- Mr. John Mumford	- 534
		- Mr. William Stovald (2d Time)	- 536
		- Mr. Patrick Maitland	- 540
XIX.	Tuesday, 14th	- Do.	- 554
		- Mr. Allen Gilmore	- 559
		- Mr. James M'Taggart	- 565
	Wednesday, 15th	- Do.	- 569
		- Mr. Henry Fermor	- 573
XX.	Thursday, 16th	- Mr. Gabriel Gillett	- 588
		- Mr. James Thorn	- 593
		- Mr. Isaac Sparrow (3d Time)	- 602
	Friday, 17th	- Mr. Henry Fermor (2d Time)	- 605
		- Mr. Germain Layie	- 611
		- Mr. Matthew Fagg	- ibid.
		- Mr. Robert Joblin	- 614
		- Mr. George Hall	- 615
XXI.	Monday, 20th	- Mr. Matthew Fagg (2d Time)	- 623
		- Mr. Germain Layie (Do.)	- 628
		- Mr. George Morris	- 631
		- Mr. John Staples	- 633
		- Mr. Thomas Clare	- 636
	Tuesday, 21st	- Robert Seppings Esq.	- 639
XXII.	Thursday, 30th	- ACCOUNTS	- 651

ACCOUNTS AND PAPERS.

- (1.)—Number and Tonnage of Ships employed in H. M. Service; under the Transport Board p. 73.
- (2.)—Number of Hired Armed Vessels, with their Tonnage, Do. ibid.
- (3.)—Number and Tonnage of Ships and Vessels built in Great Britain; 1786—1814 . . . p. 76.
- (4.)—Number and Tonnage of Prize Ships admitted to Registry in G. B. in 1793—1814 . . . p. 77.
- (5.)—Number and Tonnage of Ships launched in the Thames, for E. I. Company; 1770—1812 p. 78.
- (6.)—Do. . . . employed in the Trade with The East Indies and China; 1792—1813 p. 79.
- (7.)—Do. . . . employed by The E. I. C. in Voyages to and from India; 1793—1814. p. 80—84.
- (8.)—Number and Tonnage of Indian-built Ships and Vessels (registered) annually employed in the Trade between Great Britain, India and China; 1794—1814 p. 85.
- (9.)—Number and Tonnage of Ships now building in British India and the adjacent Islands . . . p. 86.
- (10.)—Do. . . . built in Asia, which have been admitted to Registry in G. B. in 1794—1814 . . . ibid.
- (11.)—Freight per Ton paid for the last 5 Ships built in England for The E. I. Company . . . p. 88.
- (12.)—Freight per Ton agreed to be paid, by The East India Company, to the Owners of the Ships built in India, in 1813, for their Service p. 89.
- (13.)—Outfit of new Ships, 1,200 Tons burthen; 1793—1813 p. 90.
- (14.)—Outfit of new Ships, 800 Tons burthen; 1793—1813 p. 91.
- (15.)—Oak Timber imported, in each year; 1794—1813 p. 92.
- (16.)—Masts and Spars imported in each year; 1794—1813 p. 93.
- (17.)—Hemp imported, in each year; 1793—1813 p. 94.
- (18.)—Cordage exported to India, in each year; 1793—1813 ibid.
- (19.)—Sail-cloth exported to India, in each year; 1793—1813 p. 95.
- (20.)—Iron exported to India, in each year; 1793—1813 ibid.
- (21.)—Wrought or manufactured Iron exported to India, in each year; 1793—1813 . . . p. 96.
- (22.)—Copper exported to India, in each year; 1793—1813 p. 97.
- (23.)—Teak, and other Timber, imported into India; 1792—1813 p. 98.
- (24.)—Letter from the Navy Board to Messrs. Brent p. 176.
- (25.)—Ships in the Service of Government which have been under Repair in the Merchants Yards on the River Thames ibid.
- (26.)—Frigates, Sloops, and small Vessels built for the Naval Service in the Merchants Yards p. 177.
- (27.)—Masts, Yards, and Spars, exported by The East India Company; 1794—1813 . . . p. 195.
- (28.)—Loss of the Ship, Earl Talbot ibid.
- (29.)—Loss of the Ships, True Briton and Skelton Castle p. 196.
- (30.)—Loss of the Ship, Prince of Wales ibid.
- (31.)—Loss of the Ship, Ganges p. 197.
- (32.)—Loss of the Ship, Ocean ibid.
- (33.)—Ships laid down on the bottom of other Ships, &c. p. 198.
- (34.)—Shipwrights at present employed in H. M. Dock Yards p. 225.
- (35.)—Ships built in Private Yards for H. M. Service, since 1791, broken up, lost or destroyed, p. 226.
- (36.)—Ships built in His Majesty's Yards, since 1791, broken up, lost, or destroyed, &c. p. 229.
- (37.)—Ships built in Private Yards, since 1791, and purchased for, or taken into H. M. Service p. 236.
- (38.)—Ships built in The East Indies, since 1791, on account of H. M. Navy p. 233.
- (39.)—Account of Expence incurred for repairing Ships of War in Private Yards, in 1805 . . . p. 252.
- (40.)—Minutes of Evidence on the loss of the Ships Calcutta, &c. p. 269.
- (41.)—Timber cut, in the last seven years, in H. M. Forest of Dean p. 337.
- (42.)—Timber standing in H. M. Forest of Dean ibid.
- (43.)—Survey of Oak Timber standing in the Forest of Dean, 1808 p. 338.
- (72.) [B] (44.)—Teak

ACCOUNTS AND PAPERS.

- (44.)—Teak Timber, or other Asiatic Wood, purchased by the Navy Board, 1800—1814 - p. 338.
- (45.)—British North American Pine or Fir Timber, contracted for by the Navy Board - p. 339.
- (46.)—Ships (not Indiamen) launched in the River, for the Merchants Service - - - - - ibid.
- (47.)—Correspondence in 1805, on the subject of building 74-Gun-Ships - - - - - p. 347.
- (48.)—Letter from the Admiralty-office, 19 May 1814; enclosing,
- (48¹)—Ships built in The King's Yards since 1802; 1st, 2nd, 3rd, and 4th Rates - - - - - p. 376.
- (48²)—Correspondence relating to a Supply of 20,000 Loads of Timber - - - - - p. 377.
- (48³)—Contract of Mr. Larking, Feb. 1814, to supply the Navy Board with Oak Timber - p. 381.
- (48⁴)—Oak Timber delivered into His Majesty's Yards by Mr. Larking - - - - - p. 385.
- (48⁵)—English and Foreign Oak Timber, &c. expended in H. M.'s several Dock Yards - - - - - ibid.
- (49.)—Letter from Plymouth Officers, March 1813, on the Building and Fastening of *The Dublin* - 386.
- (50.)—Master Shipwrights of Chatham, &c. on the Building and Fastening of *The Rodney* - p. 387.
- (51.)—Officers of Plymouth Yard, May 1804, on the Building and Fastening of *The Ardent* - p. 388.
- (52.)—Letter from Com^r Grey, April 1813, on the Building and Fastening of *The Rodney* - p. 389.
- (53.)—Defects of His Majesty's Ship *The Rodney* - - - - - ibid.
- (54.)—Letter from Com^r Peake, March 1813, on the Building and Fastening of *The Dublin* - p. 390.
- (55.)—Length of Service, before requiring Repair, of H. M. Ships *Ardent*, *Rodney*, and *Dublin* - p. 398.
- (56.)—Shipwrights and Workmen in the Building and Repairing Yards on the Thames - p. 392.
- (57.)—Number of the Men, of all Classes, employed in 23 Private Yards on the River Thames, for building and repairing Ships, on Thursday 14 April 1814 - - - - - p. 433.
- (58.)—Ships of War, built in the Private Yards at The Out Ports - - - - - p. 434.
- (59.) A. 1.—Money paid by The E. I. Company, for Building and Outfit of Ships in India - p. 455.
- (60.) A. 2.—Accounts of Expences of The East India Company's ship *Thomas Grenville*, from her first cost and outfit in India, to her 3rd voyage from London - - - - - ibid.
- (61.) A. 3.—Ships built for the Service of The East India Company, 1793—1814 - - - - - p. 458.
- (62.) A. 4.—Artificers permitted by The E. I. Company to go to India - - - - - p. 460.
- (63.) A. 5.—India-built Ships admitted to British Registry since 31 March 1814 - - - - - ibid.
- (64.) A. 6.—Orders of The East India Company, relating to Teak or Indian Wood-Ships, &c. p. 461.
- (65.) B.—Award in the case of H. M. Ship *Ajax*, built by Messrs. Brent - - - - - p. 462.
- (66.) C. 1.—Overfeer's certificate for *The Dublin* - - - - - p. 465.
- (67.) C. 2.—Master Shipwright of Woolwich Yard and Assistants, their Survey of *The Dublin* - p. 466.
- (68.) C. 3.—Do. - Do. - upon the Fastenings of *The Rodney* - - - - - ibid.
- (69.) C. 4.—Overfeer's Certificate for *The Rodney* - - - - - ibid.
- (70.) C. 5.—Master Shipwright of Woolwich Yard and Assistants, their Survey of *The Rodney* - p. 467.
- (71.) C. 6.—Money expended on the Hulls of *The Rodney* and *The Dublin*, after being launched - ibid.
- (72.) D. 1. 2. 3.—Papers relating to defects in H. M. Ship *Courageux* - - - - - ibid.
- (73.) E. 1. 2.—Do. - Do. - - - in H. M. Ship *Blake* - - - - - p. 469.
- (74.) F.—Extract of Letter from the Chatham Officers, relating to H. M. Ship *The Terrible* - p. 471.
- (75.) G.—Certificate of Survey of the Master Shipwright of Woolwich Yard and his Assistants for H. M. Ship *Ardent*; built by Mr. Thomas Pitcher - - - - - ibid.
- (76.) H.—Ships and Vessels in H. M. service, launched from the Private Yards in the river Thames; and also Ships, &c. now building - - - - - p. 472.
- (77.) I.—Rough Oak Timber purchased by The Ordnance Board; 1806—1813 - - - - - p. 481.
- (78.) K.—Ships and Vessels built in the ports of Sunderland and Tyne; 1786—1813 - - - - - p. 486.
- (79.)—Ships built, building, or ordered to be built in India for His Majesty's Service - - - - - ibid.
- (80.)—Ships of the Line built in the Merchants Yards, from 1793 to 1814 inclusive - - - - - p. 487.
- (81.)—Shipwrights employed in the King's Yards, in each Year, from 1793 to 1814 - - - - - p. 488.
- (82.)—Shipwrights entered in the King's Yards in the present year (1814.) - - - - - ibid.
- (83.)—Expences for repairing Ships of War in Private Yards; 1793—1814. - - - - - p. 489.
- (84.)—Ships

ACCOUNTS AND PAPERS.

- (84.)—Ships in the service of Government repaired in Merchants Yards; 1793—1814 - p. 489.
- (85.)—Ships and Vessels of War building in Private Yards at The Outports - - p. 490.
- (86.)—Foreign Thickstuff, Plank, and Fir Timber, expended in His Majesty's Dock Yards - ibid.
- (87.)—ENGRAVING of a MODEL, referred to in the Evidence of Mr. *Henry Dawes* - p. 490.
- (88.)—Letter from the Earl of St. Vincent to the Chairman and Deputy Chairman of The East India Company; 31 March 1802:—On limiting the Tonnage of their Shipping; and annually building a Ship of Teak wood in India - - - - p. 517.
- (89.)—Return to an Order for an Account of all the Machinery sent from Great Britain to India, since 1780, for the manufacture of Ropes, Cordage, and other Naval Stores - - - - ibid.
- (90.)—Account of the Prices per ton at which Ship Builders in the Private Yards in the Thames and at the Out Ports, have offered to build Ships of the Line, Frigates, &c. - - - - p. 545.
- (91.)—Forms of Advertisements for building, in Private Yards, Ships of the Line, Frigates, &c. p. 549.
- (92.)—Account of Ships, Regular and Extra, at present (15 June 1814) in the service of The East India Company; specifying the Tonnage, &c. - - - - p. 584.
- (93.)—Correspondence (in March and April 1802) between The East India Company and The Admiralty, relative to the building large Ships for The Company's Service - - - - p. 586.
- (94.)—Account specifying which of the Tenders contained in the Account dated the 10th Instant (p. 545, No. XVIII. of these Minutes) were accepted by the Commissioners of the Navy p. 617.
- (95.)—Account of the Number of Vessels, with the amount of their Tonnage and the number of Men and Boys usually employed in Navigating the same; &c.—for Ten years, 1804—1813. [*Extracted from the Finance Accounts, Class IV.*] - - - - ibid.
- (96.)—Ships and quantity of Tonnage in The East India Company's Service - - - - p. 619.
- (97.)—Private Trade between Europe, America, and Bengal, 1795—1800. [No. VI. in the Papers ordered by The House to be printed 30 April 1813] - - - - p. 620.
- (98.)—Minute of The East India Company, 8 April 1807, relative to continuing Ships in their service, for two years beyond the number contracted for - - - - p. 645.
- (99.)—Instructions, dated 3 June 1814, sent by The Court of Directors of The East India Company, to their Governor in Council at Bombay, relative to the building a Ship for The Company's Service - - - - ibid.
- (100.)—Account of the Prices at which different persons have made Tenders for the supply of Oak Timber, for the use of the Ordnance - - - - p. 646.
- (101.)—Ships built in The King's Yards; 1793—1814 - - - - p. 651.
- (102.)—English Oak Timber contracted for by The Navy Board, from 1803 to 1810 - - - - p. 652.
- (103.)—Extract Contract John Larkin with Navy Board in November 1810; respecting Allowance in certain Cases to Contractors - - - - p. 653.
- (104.)—Ships discharged from The East India Company's Service since April in the present year - - - - ibid.
- (105.)—East India-built Ships engaged in different Expeditions to Manilla, &c. from 1792 to the present time. - - - - - 654.