



ANNO DECIMO & UNDECIMO

VICTORIÆ REGINÆ.

Cap. cclxv.

An Act to alter and amend the Acts relating to the *Birkenhead Commissioners Docks*, and to make further Provision with respect to the Construction of the Sea or Wharf Walls along *Wallasey Pool*, and for other Purposes. [22d July 1847.]

WHEREAS an Act was passed in the Session of Parliament held in the Seventh and Eighth Years of the Reign of Her present Majesty, intituled *An Act for constructing Tidal Basins, a Dock, and other Works at Birkenhead in the County of Chester, and for other Purposes*: And whereas another Act was passed in the Session of Parliament held in the Eighth and Ninth Years of the Reign of Her present Majesty, intituled *An Act for the Construction of a Dock, Wharf Walls, and other Works by the Birkenhead Dock Commissioners at Birkenhead in the County of Chester*: And whereas it is expedient that further Provision should be made with respect to the Construction of the Sea or Wharf Walls authorized by the said last-mentioned Act, and that some of the Powers and Provisions of the said recited Acts should be altered,
[Local.] 43 G amended,

7 & 8 Vict.
c. 79.

8 & 9 Vict.
c. 4.

amended, extended, and enlarged; but the Purposes aforesaid cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That all the Provisions, Matters, and Things contained in the said recited Acts or either of them, so far as the same are now unrepealed and in force, and except such of them or such Parts thereof as are by this Act repealed, altered, or otherwise provided for, or are inconsistent with the Provisions hereof, shall extend to this Act and the Purposes hereof as fully and effectually as if the same Provisions, Matters, and Things were repeated and re-enacted in this Act in reference to such Purposes.

Provisions of
recited Acts
extended
to this Act.

Commis-
sioners, on
Requisition
of certain
Owners of
Land, may
run dry Part
of Wallasey
Pool for
constructing
Walls.

II. And be it enacted, That in case at any Time or Times before the Completion of the intended permanent Embankment across *Wallasey Pool* by the said first-recited Act authorized, or within the Space of Two Years after such Completion, all the Owners of the Land fronting the said Pool, at a Distance of not less than Eight hundred Yards, to be measured in a straight Line in a North-westerly Direction from a central Point in the proposed Line of the said intended permanent Embankment, as marked out in the Plan referred to in the said first-recited Act, shall by Writing under their Hands request the said Commissioners to run dry the said Pool above the said Space of Eight hundred Yards, so that the Wharf Walls upon or along each Side of the said Pool above the Space aforesaid may be constructed either simultaneously or in any Section next adjoining such Space as aforesaid during the Exclusion of the Water from such Portion of the said Pool, it shall be lawful for the said Commissioners and they are hereby required, as soon as conveniently may be after the Receipt of such Request in Writing, to make and remove from Time to Time all such temporary Dams as they may find necessary for excluding Water from such Portion of the said Pool as aforesaid, pending the Construction of the Wharf Walls or the making of the Excavations therein in the most economical and expeditious Manner, and also for impounding the Water from Time to Time in any Part or Parts of the said Pool next adjoining the said Space of Eight hundred Yards, when and as the Wharf Walls upon or along such Part or Parts respectively shall be built and completed, so that Vessels may from Time to Time have access to all Parts of the said Pool adjoining the said Space of Eight hundred Yards where the Wharf Walls along the Sides thereof shall be completed before the Expiration of the Term of Two Years herein-before allowed.

Pool not to
be run dry
without
Consent of

III. Provided always, and be it enacted, That the said Pool above the said Space of Eight hundred Yards shall not at any Time be run dry by the said Commissioners without the Consent in Writing under the

the Hands of all the Owners of the Land fronting such Portion, or their Agents, being first obtained; and after the Expiration of Two Years from the Completion of the said intended permanent Embankment all such temporary Dams as shall have been constructed across the said Pool under the Authority herein-before contained, or otherwise, between the said permanent Embankment and *Wallasey Bridge*, shall be forthwith removed so as to admit the Water to flow over and fill up the whole of the said Pool as far as *Wallasey Bridge* aforesaid.

Majority in Extent of Owners of Land affected thereby, &c.

IV. Provided also, and be it enacted, That in all Cases the Construction and Removal of such temporary Dams, whether for the Execution of Works or the Admission of Vessels to the Wharf Walls, shall be made at the Times and in the Manner sanctioned and approved by the Commissioners for the Conservancy of the River *Mersey*, and shall in no Case be permitted without such previous Sanction and Approval to be signified in Writing under the Hand of the acting Conservator for the Time being.

Construction and Removal of temporary Dams not to be permitted without Consent.

V. And whereas the whole of the Land fronting the South Side of such Portion of the said Pool as is included within the said Space of Eight hundred Yards belongs to the *Birkenhead Dock Company* and the said Commissioners and the *Chester and Birkenhead Railway Company*, whose Property will be materially benefited by the immediate Admission thereto of the Water of the said Pool; be it therefore enacted, That so far as relates to such Portion of the said Pool as is comprised within the said Space of Eight hundred Yards, the Construction of the Wharf Walls upon or along the same shall in all respects be subject to and governed by the Regulations and Provisions respecting such Construction contained in the said secondly-recited Act: Provided nevertheless, that inasmuch as the Expence of constructing the same will be materially increased in consequence of the penning up of the Waters therein, which will render it necessary to build such Walls by means of Coffers Dams, the extra Expence to be thereby occasioned in the Construction of any Portion of such Wharf Walls upon or along the North Side of the said Pool within the Space aforesaid shall not be charged upon or payable by the Owner of the Land fronting such Portion of the Wharf Walls as aforesaid, or any Person by the said secondly-recited Act authorized to purchase the same, but all such extra Costs, Charges, and Expences, to be calculated by the Difference between the Cost of building such Walls with the Waters of the said Pool constantly impounded and the Cost of building the same subject to the Influx and Reflux of the Tide, shall be borne and paid by the said Commissioners; and the Owner of any such Lands, or the Person entitled to purchase such Wharf Wall as last aforesaid, shall only be required to pay the Residue of such Costs, Charges, and Expences; and all such extra Costs, Charges, and Expences, to be calculated as herein-before is mentioned, of building the Wharf Walls upon or along the South Side of such Portion of the said Pool as aforesaid shall be borne and paid by the Person in front

The building of Wharf Walls along the Sides of the Pool to be subject to Regulations of secondly-recited Act.

Proviso as to extra Expence of building the same by means of Coffers Dams, &c.

front of whose Land or Premises such last-mentioned Portion of the Walls aforesaid shall be constructed.

As to Construction of Wharf Walls above the said Space of 800 Yards.

VI. And be it enacted, That so far as relates to the Sides of the said Pool above the said Space of Eight hundred Yards it shall be lawful for the Commissioners to construct the said Sea or Wharf Walls upon or along the same in such Portions, at such Times, and in such Manner, and subject to such Regulations, as are herein-after provided.

Provision in case sufficient Money is not raised for constructing Works within Space of 800 Yards within a certain Time.

VII. Provided also, and be it enacted, That if a sufficient Sum of Money for constructing the said Walls upon or along the Sides of the said Pool within the said Space of Eight hundred Yards shall not have been raised by the said Commissioners within the Space of One Month from the passing of this Act, then and at any Time thereafter it shall be lawful for the Owner of any Land fronting such last-mentioned Portion of the said Pool to signify in Writing to the said Commissioners that he chooses to avail himself of the Provisions herein-after contained in relation to the Construction of the Walls above the said Space of Eight hundred Yards, and from and immediately after the Receipt of such Notice the said Commissioners shall and they are hereby required to construct the Wall in front of the Land belonging to such Owner as aforesaid in such Portions, at such Times, in such Manner, and subject in all respects to such Provisions and Regulations, as are herein-after contained in reference to the Construction of the Walls upon or along the Sides of the said Pool above the said Space of Eight hundred Yards.

Commissioners to execute Wharf Walls upon Request of Owner of Lands advancing Money for the Purpose.

VIII. And be it enacted, That upon the Request in Writing of the Owner of any Land fronting such last-mentioned Portion of *Wallasey Pool*, (which Request shall describe the Lands belonging to him, and in respect of which he shall require the Sea or Wharf Wall to be built as hereafter mentioned,) the Commissioners shall forthwith cause an Estimate to be made by Two Engineers, one to be nominated in Writing by the Commissioners, and the other by such Owner as aforesaid, or by such Third Engineer as shall be appointed for that Purpose by the said Two Engineers to be so nominated as aforesaid, and whom they are hereby required to appoint, of the Costs, Charges, and Expences of constructing and incident to the Construction of so much of the Sea or Wharf Walls as shall front the Lands so belonging to such Owner, and as shall be described in such Request as aforesaid, and a Copy of such Estimate shall be delivered to such Owner; and it shall be lawful for such Owner, at any Time after Two Months from the Receipt of the said Estimate, to pay to the Commissioners the Amount thereof, and the Commissioners shall thereupon grant to such Owner a Mortgage in the Form prescribed by the said recited Acts for the Amount of the Money so paid to them, which Mortgage shall bear Interest at the Rate of Five Pounds *per Centum per Annum*;

Annum; and the said Commissioners shall also thereupon proceed to construct, and with all reasonable Despatch complete, the Sea or Wharf Walls mentioned in the said Estimate; and upon the Completion thereof the Commissioners shall cause a true and particular Account to be made out of all the Money expended by them in constructing or in anywise relating or incident to the Construction of the same (with Interest thereon, if any), and within Two Months after the Completion of such Portion of the said Sea or Wharf Walls shall cause an Abstract of the said Account to be delivered to such Owner, who shall within Twelve Months after the Receipt of the said Abstract pay to the Commissioners the Amount of Money stated therein (together with Interest thereon after the Rate of Five Pounds *per Centum per Annum*, to be computed from the Time of the Completion of the said Portion of the said Sea or Wharf Walls), and upon Payment thereof such Portion of the said Sea or Wharf Walls shall vest in and become the Property of such Owner for the like Estate, Term, and Interest therein as the Estate, Term, and Interest held by him in the Land fronting the same, subject to the Provisions in the secondly-recited Act and this Act contained: Provided always, that it shall be lawful for such Owner, if he shall think fit, to surrender to the said Commissioners the Mortgage which he may have received from them as aforesaid in part or whole Payment (as the Case may be) of the Sum stated in the said Abstract; and in case such last-mentioned Sum shall be less than the Amount secured by such Mortgage, then the Commissioners shall immediately upon such Surrender of the said Mortgage repay to such Owner the Difference between such Amount and the Sum stated in the said Abstract.

IX. And be it enacted, That the Word "Owner," when used in this Act in reference to the said Sea or Wharf Walls, or the Purchase thereof, shall mean any Person or Corporation who shall be entitled to the Lands adjoining the said Sea or Wharf Walls in Fee Simple, or for any greater Estate than a Term for Years whereof not less than Twenty-one Years shall remain unexpired, and shall also mean any Person or Corporation capacitated by the Lands Clauses Consolidation Act, 1845, to sell Lands for any Undertaking.

Definition
of Term
"Owner."

X. Provided always, and be it enacted, That nothing in this Act contained shall be construed to alter the mutual Rights, Remedies, and Obligations of Lessors and Lessees of Land, or Covenantors and Covenantees, with respect to Land on the North and South Sides of *Wallasey Pool*, but such mutual Rights, Remedies, and Obligations shall between such respective Parties remain in full Force and Effect.

Rights and
Obligations
of Lessors
and Lessees
not to be
altered.

XI. And be it enacted, That if at the Expiration of Two Months from the passing of this Act the Owner of any Lands fronting such Portion of *Wallasey Pool* as aforesaid shall not have required the Commissioners to construct the said Sea or Wharf Wall fronting such Lands, then it shall be lawful for the Commissioners (and they are

Commission-
ers may pile
in front of
Lands where
Sea Wall is
not built.

[*Local.*]

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hereby

hereby required) for the Purpose of preserving and banking-up the Lands within the Line of the Sea or Wharf Wall as described on the Plans in the secondly-recited Act mentioned, and before which they shall not have been so required to construct the said Sea or Wharf Walls, and for the Purpose of more easily and beneficially constructing the said Sea or Wharf Walls fronting the same at some future Period to drive Piles and construct other similar and necessary Works in the Bed or Soil of *Wallasey Pool* fronting such Lands as aforesaid, and so to continue the same until such Time as the Portion of the Sea or Wharf Walls fronting the same shall be constructed as herein-after mentioned: Provided always, that the Piles so driven shall be so left that their Heads shall not be above the Level of the then Bed of the Pool on the Line upon which the Piles are driven: Provided also, that no such Piles shall be driven or Works constructed below the Line of High-water, defined by a Tide rising Fifteen Feet Six Inches above the Old Dock Sill at *Liverpool*, without the previous Consent in Writing of the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, or some Two of them, first had and obtained for that Purpose, and then subject to such Conditions, Restrictions, and Limitations, as to Time or otherwise, as the last-mentioned Commissioners shall think fit: Provided nevertheless, that such Consent shall not be required in respect of any Part of the Bed of the Pool which has been or shall be purchased from Her Majesty's said Commissioners.

Power to
Owner at
future Time
to require
Commission-
ers to exe-
cute Wall.

XII. And be it enacted, That it shall be lawful for the Owner of any Lands fronting the said Portion of *Wallasey Pool* who shall not within the said Period of Two Months have required the Commissioners to construct the Portion of the Sea or Wharf Walls fronting his Land as aforesaid at any Time thereafter, upon giving to the Commissioners Three Months Notice of his Intention so to do, to require the Commissioners to cause an Estimate to be made as herein-before mentioned of the Costs, Charges, and Expences of the Construction, or in any way incident to the Construction, of the Sea or Wharf Wall fronting his Land, and thereupon the same Proceedings shall be had, and the said Owner shall be entitled to the same Rights of Purchase and otherwise, as are herein-before contained with respect to the Owners of Lands fronting which the Commissioners shall before the Expiration of the said Period of Two Months have been required to construct the said Sea or Wharf Walls: Provided nevertheless, that it shall be lawful for the Commissioners to include in the Amount of the Purchase Money to be paid by such Owner all the Costs, Charges, and Expences which they may have incurred in driving in Piles and constructing Works for banking-up and preserving the Land fronting such Portion of the said Sea or Wharf Walls as aforesaid.

Commis-
sioners, upon
Application
of any Own-

XIII. And be it enacted, That it shall be lawful for the said Commissioners and they are hereby required, on the Request in Writing of the Owner of any Land fronting *Wallasey Pool*, to cause an Estimate

Estimate to be made in manner herein-after mentioned of the Costs and Expences of and incident to the dredging, deepening, and cleansing of the Bed of said Pool between the Site of the said intended permanent Embankment, or any temporary Works to be erected for the Purpose of constructing the same, and *Wallasey Bridge*, so as thereby to form in the Centre of the said Pool a fair and equal Channel of such Depth and Width as in such Request shall be mentioned, so that such Channel shall not be of a greater Depth than Eight Feet below the Level of the Old Dock Sill in *Liverpool* aforesaid, or be less than Two hundred Feet in Width for the Passage of Vessels resorting to and using such Portions of the said Pool, and for the Use and Convenience of the several Owners of Land abutting upon the same, and to deliver a Copy of such Estimate when so made to such Owner as aforesaid; and in case such Owner shall within the Space of Two Calendar Months next after a Copy of such Estimate shall have been so delivered as aforesaid pay or cause to be paid to the said Commissioners the Amount of the Costs, Charges, and Expences in such Estimate mentioned, then and in such Case the said Commissioners shall and they are hereby required with all convenient Speed to cause such Portions of the said Pool as lastly herein-before are mentioned to be dredged, deepened, and cleansed in manner aforesaid; and in case such Channel shall be so formed as last aforesaid, the said Commissioners are hereby required to apply any Sum of Money which may from Time to Time thereafter be paid to them by such Owners or any of them for that Purpose in maintaining and keeping open such Channel.

ers of Land fronting *Wallasey Pool*, may, on being furnished with Money, form a Channel from Site of Embankment to *Wallasey Bridge*.

XIV. And be it enacted, That the said Commissioners shall, upon the Request in Writing of the Owner of any Land fronting *Wallasey Pool* (which Request shall describe the Land belonging to him), cause an Estimate to be made and delivered to him of the Costs, Charges, and Expences of dredging out and deepening so much of the Bed of the said Pool in front of the Land described in such Request as shall intervene between the Line of such central Channel as aforesaid and the Line marked out in the Plan referred to by the said secondly-recited Act as the Line of the Sea or Wharf Walls by the said Act authorized to be made in front of such Land, such Estimate to be made in manner herein-after mentioned; and upon Payment by such Owner to the said Commissioners at any Time within One Month from the Receipt of such Estimate of the Amount therein mentioned, the said Commissioners shall thereupon proceed with all reasonable Despatch to dredge out and deepen such Portion of the Bed of the said Pool as last aforesaid from the said central Channel to and along the Line of the said proposed Sea or Wharf Walls in front of the Land described in such written Request, and shall from Time to Time apply any Money which may thereafter be paid to them by such Owner as aforesaid for that Purpose in cleansing and keeping open such Portion of the said Pool as shall be so dredged and deepened as last aforesaid.

Dock Commissioners, upon Request of Owners of Lands fronting *Wallasey Pool*, may deepen the Bed of the said Pool between the Channel and the Line of Wall in front of such Land.

XV. And

Estimate of
Expences of
dredging to
be made by
Two En-
gineers, ap-
pointed by
Owners and
Commis-
sioners.

XV. And be it enacted, That the several Estimates by this Act required to be made of the Costs and Expences of dredging, deepening, and cleansing any Portion of the said Pool shall from Time to Time be made by Two Engineers, one of whom shall be nominated in Writing by the said Commissioners and the other by the Owner of any Land requiring such Works to be done, or by such Third Engineer as shall be appointed for that Purpose by the same Two Engineers so to be nominated as aforesaid, and whom they are hereby required to appoint accordingly; and the Estimate so made shall be the Amount which such Owner is herein-before required to pay to the Commissioners before they shall be required to commence such Work: Provided nevertheless, that such Owner shall, in addition to the Amount stated in such Estimate, pay to the Commissioners such Amount (if any) as the actual Cost of the Execution of the Works when completed shall exceed the Amount of such Estimate, such additional Sum to be paid to the Commissioners within One Month after Demand thereof in Writing made to such Owner: Provided also, that in case the Amount so paid to the Commissioners as aforesaid shall be greater than the actual Costs of the Execution of the Works, such Excess shall be repaid by the Commissioners to the Owner or other Person having advanced the same: Provided also, that in case any Damage shall result to the adjoining Lands, or to any Piles which may from Time to Time be driven in front of such Lands for the Protection of the same, by reason or in consequence of such dredging, deepening, or cleansing as aforesaid before the said Walls shall have been built in front of such Lands, all such Damage shall be made good at the Expence of the Owner or Owners of the Land upon whose Request such dredging, deepening, or cleansing shall have taken place, and may be recovered from such Owner or Owners by Action of Debt in any Court of competent Jurisdiction.

Commission-
ers to have
Power to
dredge, &c.

XVI. Provided always, and be it enacted, That nothing herein-before or in the said secondly-recited Act contained shall be deemed or taken to prevent the said Commissioners from dredging out, deepening, and cleansing the Bed of the said Pool, and maintaining the same at any Depth, not exceeding such Depth as aforesaid, at such Times, in such Portions, and in such Manner as they shall from Time to Time think fit.

Commission-
ers of Woods,
&c. may
apply Monies
in construct-
ing Wharf
Walls in front
of Crown
Property
abutting on
Wallasey
Pool.

XVII. And whereas Her Majesty in right of Her Crown is or claims to be entitled to various Parts of the Soil and Shore of the said Pool called *Wallasey Pool*, above the said intended permanent Embankment, the Value of which will be increased by the Construction of the Wharf Walls in front thereof, but in the event of any Sale or Lease being made of such Parts of the Soil or Shore aforesaid with a view to the Formation of Docks or Basins other than Docks or Basins for the public Service, the first Offer of such Sale or Lease, as far as regards the Shores or Soil above the said intended permanent Embankment, is by the said former recited Act directed to be made

to the several Owners of or Persons interested in the Land or Ground immediately abutting upon the said Shores; and in the event of such last-mentioned Owners or Persons within Five Years after the passing of such Act applying to the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works, and Buildings to purchase or take Leases of the Rights of the Crown in the Soil or Shore of the said Pool or the Creeks running into the same, upon which the several Lands abut, Her Majesty's said Commissioners are empowered to sell or lease such Rights at such Prices or Rents as shall be fixed by Arbitration, or Arbitration and Umpirage, to be the fair and proper Value of the same; be it therefore enacted, That it shall be lawful for the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, from Time to Time, after the passing of this Act, with the Consent in Writing of the Lords Commissioners of Her Majesty's Treasury, or any Three of them, to apply all or any Part of the Monies which shall have been or shall be received by them for or in respect of any Rights of Her Majesty in any Land or Soil or Shore of the said River *Mersey*, or any Pool or Creek communicating with or running into the same, which have been or shall be mortgaged, sold, or demised under or by virtue of any Powers enabling them in that Behalf, in or towards the Construction or Completion, subject to the Provisions of this and the recited Acts, of any Portion of the Wharf Walls in front of any Part of the Soil or Shore of the said Pool above the said intended permanent Embankment to which Her Majesty is or claims to be so entitled as aforesaid, or any Works incident thereto, or otherwise in reclaiming such Soil or Shore as aforesaid, or any Part or Parts thereof, at such Times and in such Manner as Her Majesty's said Commissioners, with such Consent as aforesaid, shall think expedient.

XVIII. Provided always, and be it enacted, That in case Her Majesty's said Commissioners should apply any Part of the Monies aforesaid in the Construction of any of the said Wharf Walls, or otherwise reclaiming any Portion of the Soil or Shore of the said Pool to which Her Majesty is or claims to be entitled as aforesaid under the Powers herein-before contained, and the Owners of or any Person interested in the Land or Ground immediately abutting upon the Shore in front of which such Wharf Wall shall have been so constructed as aforesaid shall, under the Provisions of the said first-recited Act, signify his Desire to the said Commissioners to purchase the Rights of the Crown in the Soil or Shore upon which the said Land shall abut, or to take a Lease of the same, the whole Amount of the Cost, Charges, and Expences which shall have been incurred by Her Majesty's said Commissioners in the Construction of the said Wharf Wall and otherwise reclaiming the said Shore, together with Interest thereon after the Rate of Five Pounds *per Centum per Annum*, to be computed from the Time of the Completion of such Portion of the said Wall to the Day of Payment of such Expences, shall be included in the Estimate of the Purchase Money or Rents

Owners of Land abutting on Shore desirous of purchasing Rights of the Crown in Shore to pay Expences of Walls, &c.

to be paid as the fair and proper Value of the same Rights under the Arbitration or Umpirage by the said first-recited Act authorized to be made.

Agreements entered into not to be prejudiced.

XIX. Provided always, and be it enacted, That nothing in this Act contained shall prejudice or affect any Agreement entered into between the said Commissioners and any other Person or Persons which but for the passing of this Act might have been enforced in any Court of Law or Equity.

Expences of Act.

XX. And be it enacted, That the Expences of preparing and applying for, obtaining, and passing this Act, or incident thereto, shall be defrayed by the Commissioners out of the first Monies which shall come into their Hands by virtue of the said recited Acts or this Act, or either of them.

Public Act.

XXI. And be it enacted, That this Act shall be a Public Act, and shall be judicially taken notice of as such.

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