



CHAPTER clxvii.

An Act to amend the Upper Mersey Navigation Act, 1876.

A.D. 1879.

[21st July 1879.]

WHEREAS by the Upper Mersey Navigation Act, 1876, (herein-after called "the recited Act,") the Upper Mersey Navigation Commissioners (herein-after called "the Commissioners") were incorporated, with powers to provide and maintain buoys, beacons, lighthouses, light-ships, and lights, and to do all other acts and things necessary for effectually lighting and buoying the navigable channels of the Upper Mersey within the limits by that Act defined (herein-after called "the Upper Mersey") for the protection of ships and vessels navigating the same :

39 & 40 Vict.
c. civ.

And whereas the Commissioners were by the recited Act (section twenty-eight) authorised to demand, recover, and receive certain tolls, rates, and dues, subject to the provision by the same Act (section thirty) made for enabling the owner of any vessel to compound for the payment of such tolls, rates, and dues :

And whereas the Commissioners have expended considerable sums of money in paying for the expenses of the recited Act and in carrying the same into execution :

And whereas it has been found that the tolls, rates, and dues authorised by the recited Act are insufficient to enable the Commissioners to carry the same into execution, and it is therefore necessary and expedient that they should be authorised to demand and recover the several tolls, rates, and dues herein-after authorised, subject to the provisions and conditions herein-after expressed :

And whereas by the recited Act (section thirty-two) it was enacted that vessels navigating between Ellesmere Port, which is a terminal port upon the River Mersey of the Shropshire Union Railways and Canal Company, or any dock or quay which might thereafter be constructed in connexion therewith and to the seaward thereof, and Liverpool, or any dock, port, or place to the seaward of Ellesmere Port, should not be liable to more than half of the rates or dues by the recited Act authorised and which were

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for the time being actually charged by and payable to the Commissioners; and it was also enacted that the owners of such of the said vessels respectively as were under the recited Act entitled to compound for the payment of dues should in like manner be entitled to compound for the payment of such reduced dues at one half of the amounts which they would, but for the provision now in recital, have had to pay for such composition; and it is expedient that such provisions should be continued and made applicable with respect to the rates and dues by this Act authorised:

And whereas it is also expedient that further provision should be made with respect to the times and places at which meetings of the Commissioners shall be held:

And whereas the conservancy of the River Mersey from Warrington and Frodsham bridges to the sea, and of the entrances to the said river in the sea, and of the navigation thereof respectively, is vested in the Commissioners for the Conservancy of the River Mersey (herein-after called "the Mersey Commissioners"):

And whereas the Mersey Docks and Harbour Board (herein-after called "the Dock Board") have discretionary powers to cleanse, scour, open, deepen, widen, or straighten, dredge, or cut through any banks, shoals, flats, shallows, and swatchways or channels within the port of Liverpool, including the Upper Mersey, or leading into the same from the sea, for the better maintaining and preserving the navigation thereof; and it is expedient to extend the powers of the Dock Board so as to provide for the removal of rocks that may impede the navigation of channels in the Upper Mersey:

And whereas it is also expedient that the amount of money which the Commissioners are by the recited Act authorised to borrow should be increased for the purpose of enabling the Commissioners to carry into effect the purposes of that Act and of this Act:

And whereas 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, as follows; (that is to say,)

Short title.

1. This Act may be cited as the Upper Mersey Navigation Act, 1879.

Construction of Act.

2. The recited Act as amended and varied by this Act and this Act shall be read and construed together as one Act.

Commencement of Act.

3. This Act shall commence and take effect at and from the first day of January one thousand eight hundred and eighty.

4. From and after the commencement of this Act the tolls, rates, and dues authorised by the recited Act to be levied by the Commissioners shall be repealed, and the Commissioners shall then and thenceforth be authorised, subject to the provisions herein-after contained for enabling the owner of any vessel to compound for the payment of dues, to ask, demand, recover, and receive the several tolls, rates, or dues following; (that is to say,)

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—
Repeal of old
and grant of
new power to
levy tolls, &c.

For every vessel navigating or trading within and not navigating or trading beyond the Upper Mersey, an annual payment of ten shillings :

For every vessel entering the Upper Mersey from, and for every vessel leaving the Upper Mersey for, any dock, port, or place on the coast of Great Britain or Ireland, or the Isle of Man, or the Channel Islands, one penny per register ton :

For every vessel entering the Upper Mersey from, and for every vessel leaving the Upper Mersey for, any foreign port or place, twopence per register ton.

5. From and after the commencement of this Act, the thirtieth section of the recited Act shall be and the same is hereby repealed; and in case the owner of any vessel liable to the payment of dues under this Act shall be desirous of compounding thenceforth for the payment of such dues by a fixed annual payment in respect of such vessel, and for that purpose shall give notice in writing to the Commissioners of such his desire, the Commissioners shall and they are hereby required to compound with such owner for the payment of all dues payable in respect of any vessel at the rates following; (that is to say,)

Repealing
39 & 40 Vict.
c. civ. s. 30.

For every vessel (other than a vessel propelled by steam power) not exceeding the tonnage burden of one hundred tons navigating or trading between any dock, port, or place on the Upper Mersey and any dock, port, or place within that part of the port of Liverpool lying outside the Upper Mersey, the annual sum of ten shillings :

For every vessel (other than a vessel propelled by steam power) exceeding the tonnage burden of one hundred tons and not exceeding the tonnage burden of one hundred and fifty tons, navigating or trading between any dock, port, or place on the Upper Mersey and any dock, port, or place within that part of the port of Liverpool lying outside the Upper Mersey, the annual sum of fifteen shillings :

For every vessel (other than a vessel propelled by steam power) exceeding the tonnage burden of one hundred and fifty tons, navigating or trading between any dock, port, or place on the Upper Mersey and any dock, port, or place within that part of

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the port of Liverpool lying outside the Upper Mersey, the annual sum of twenty-one shillings :

For every vessel propelled by steam power, and navigating or trading between any dock, port, or place on the Upper Mersey and any dock, port, or place within that part of the port of Liverpool lying outside the Upper Mersey, the annual sum of forty-two shillings :

For every vessel navigating or trading between any dock, port, or place on the Upper Mersey and any dock, port, or place on the west coast of England between Saint Bees Head, in the county of Cumberland, and Bardsey Island, in the county of Carnarvon, other than a dock, port, or place within the port of Liverpool lying outside the Upper Mersey, the annual sum of forty-two shillings :

For every vessel navigating or trading between any dock, port, or place on the Upper Mersey and any dock, port, or place on the coast of Great Britain or Ireland, or the Isle of Man, or the Channel Islands, other than a dock, port, or place within the port of Liverpool lying outside the Upper Mersey, or between Saint Bees Head and Bardsey Island, the annual sum of eighty-four shillings :

Provided always, that all compositions, in respect of dues made pursuant to this provision shall commence and be paid as and from the first day of January in the year in which the same shall be made ; and the Commissioners shall, if such owner as aforesaid shall so desire, from time to time renew such composition from year to year or for a period of years not exceeding three years at any one time.

Repealing
39 & 40 Vict.
c. civ. s. 32.

6. From and after the commencement of this Act section thirty-two of the recited Act shall be and the same is hereby repealed, subject and without prejudice to any rates or dues then due and unpaid and the means of enforcing payment thereof, and thenceforth vessels navigating between Ellesmere Port, or any dock or quay which may hereafter be constructed in connexion therewith and to the seaward thereof, and Liverpool, or any dock, port, or place to the seaward of Ellesmere Port, shall not be liable to more than half of the rates or dues by this Act authorised and which are for the time being actually charged by and payable to the Commissioners, and to which such vessels respectively would be liable in case this present enactment had not been made, and the owners of such of the said vessels respectively as are under this Act entitled to compound for the payment of dues shall in like manner be entitled to compound for the payment of such reduced dues at one

half of the amount which they would but for this provision have to pay for such composition. A.D. 1879.

7. Notwithstanding anything in the Commissioners Clauses Act, 1847, or in the recited Act contained, the number of meetings of the Commissioners to be held for the transaction of ordinary business in each year shall be four, and such meetings shall be held in the months of January, April, July, and October respectively, and may be adjourned from time to time in the events and in the manner prescribed and contained in the Commissioners Clauses Act, 1847. Commissioners to hold four ordinary meetings in each year.
10 & 11 Vict. c. 16.

8. Any three commissioners may by written notice to the clerk of the Commissioners require a special meeting to be held, but no such meeting shall be called or held unless the notices requiring and calling the same respectively shall specify the special business to be considered at such meeting. As to special meetings.

9. The Commissioners may hold their meetings at Liverpool, Manchester, Warrington, Runcorn, or Widnes, as they shall from time to time determine. Where meetings may be held.

10. The Commissioners may from time to time in their discretion submit to the Mersey Commissioners written proposals for the removal of any defined rock or rocks in any channel in the Upper Mersey, and may therewith give notice in writing to the Mersey Commissioners that the Commissioners desire them to hold an inquiry into and to decide upon such proposals; and every such proposal and notice shall be accompanied by plans showing the nature and extent of the works proposed to be carried out, and also by estimates of the expense of such works, and also by a statement of the grounds on which such proposals are made; provided that the Commissioners shall not, without the consent of the Trustees of the River Weaver signified in writing under the hand of their clerk first obtained, submit to the Mersey Commissioners any proposal for or give notice to hold any inquiry with respect to the removal of any rock or rocks between Weston Point and Hale Head, unless such rock or rocks be situate at a distance of one hundred and thirty yards from the river wall at Weston Point, and any proposal shall provide for the removal of such rock or rocks being commenced at the said distance from the said river wall, and continued thence in a westerly direction. Commissioners may submit to Mersey Commissioners proposals for removal of rocks in Upper Mersey.

11. In every case in which the Commissioners shall submit proposals and give notice to the Mersey Commissioners in the manner herein-before provided, the Mersey Commissioners shall appoint their acting conservator to hold an inquiry into the matter Mersey Commissioners to cause an inquiry to be held as to

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such proposals.

of such proposals; and thereupon such acting conservator shall appoint a time and place for such inquiry, and shall give notice thereof, and of the nature and extent of the proposed works, by public advertisement to be inserted in each of three newspapers, one of which shall be published in Liverpool, another in Warrington, and the other in Chester, not less than twenty-one days before the time so appointed. The acting conservator shall sit at the time and place so appointed to hear any evidence and argument adduced by or on behalf of the Commissioners in support of the proposal made by them, and also any evidence and argument adduced in objection thereto by or on behalf of the Dock Board or of any corporation, person, or persons who may appear to the acting conservator to be affected by the execution of the proposed works, and may adjourn such hearing from time to time in his discretion, and shall, after hearing such evidence and argument, report to the Mersey Commissioners the effect of the objections, if any, made to the proposed works, or any of them, and his opinion in relation to the proposed works, and the probable cost of the same, and in relation to the objections, if any, thereto.

Mersey Commissioners may require Dock Board to carry out proposed works.

12. When a report shall have been made to the Mersey Commissioners by the acting conservator of the results of an inquiry held as herein-before provided, and when upon such report they are of opinion that the proposed works; or some of them or some part thereof, may be carried out at a reasonable cost, and would, if carried out, improve the navigation of some channel of the Upper Mersey, without injuriously affecting or altering the navigation of any other channel of the said river within the Upper Mersey, and without in any way injuriously affecting any other part of the said river or any of the entrances from the sea to the said river, then the Mersey Commissioners may in their discretion approve such of the proposed works as aforesaid, and may require the Dock Board to perform, and the Dock Board thereupon shall with all reasonable despatch perform, the works so approved to the reasonable satisfaction of the acting conservator for the time being.

Dock Board not to be required to expend more than 500*l.* in any year, and such expenditure to be charged by them to conservancy account.

13. Provided always, that the Dock Board shall not be required to expend in any one year ending on the first day of July a greater sum than five hundred pounds upon any works that may have been proposed and approved as herein-before provided (reasonable charges for the use of the vessels, plant, and appliances of the Dock Board, and the expense of carrying away and disposing of any rock which may be removed during such works to such place as shall be approved by the acting conservator for that purpose being included in such expenditure), and all charges and expenses incurred by the Dock Board in and about carrying out any such works or in relation

thereto shall be deemed to be conservancy expenditure, and shall be carried by them to their conservancy account.

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14. If during the execution of any work which, under the provisions herein-before contained in that behalf, the Dock Board may have been required to carry out, it should appear to the Mersey Commissioners that the same cannot be completed without incurring an expenditure materially exceeding the expenses of executing the same work as estimated in the report made to them as herein-before provided in relation to such work, then the Mersey Commissioners may in their discretion discharge the Dock Board from any further execution of that work.

Mersey Commissioners may discharge Dock Board from further execution of certain works.

15. In the execution of any works required and ordered by the Mersey Commissioners as herein-before provided the Dock Board shall, so far as regards any question of loss, damage, or injury arising out of the execution of such works, but not further or otherwise, be deemed and taken to be executing such works as agents for and on behalf of the Commissioners, and no liability shall in any case attach to the Dock Board for any loss, damage, or injury that shall arise or be sustained by or owing to the execution of any such works, or by or owing to anything done by the Dock Board in or in relation to the execution of the same, unless such loss, damage, or injury shall arise or be occasioned by the wilful neglect or wilful default of the Dock Board or their officers or servants.

Dock Board not to be liable for damage caused in execution of works.

16. If at any time after the expenditure in any year as aforesaid by the Dock Board in and about the carrying out of any such work as herein-before mentioned shall amount to five hundred pounds such work shall not be completed, and the Dock Board shall not have been discharged by the Mersey Commissioners from the further execution thereof, the Dock Board shall, on being required so to do by the Commissioners by writing under their common seal, and on the Commissioners securing to them to the satisfaction of the Mersey Commissioners the repayment of the cost of completing such work, proceed with the completion of such work with all reasonable despatch at the cost of the Commissioners, and on the completion thereof to the reasonable satisfaction of the acting conservator the charges and expenses incurred by the Dock Board in and about the completion of such work and in relation thereto shall be paid to that board by the Commissioners, who shall not, under any circumstances be entitled to call upon the Dock Board for the repayment thereof or of any part thereof.

Under certain circumstances works to be completed by the Dock Board at the cost of the Commissioners.

17. Section forty-three of the recited Act shall be read and construed as if the sum of twenty thousand pounds had been mentioned therein instead of ten thousand pounds as the amount not exceeding

Amending 39 & 40 Vict. c. civ. s. 43.

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Commissioners not exempt from provisions of Merchant Shipping Acts.

17 & 18 Vict. c. 120.

18. Nothing in this Act contained shall be deemed to exempt the Commissioners from the provisions of the Merchant Shipping Act, 1854, or of any general Act relating to harbours or docks, or dues on shipping or on goods carried in ships, now in force, or which may be passed during the present or any future session of Parliament, or from any future revision or alteration, under the authority of Parliament, of the rates and dues by this Act authorised.

Saving rights of duchy of Lancaster.

19. Nothing in this Act contained shall take away, abrogate, prejudice, or affect any of the estates, rights, or privileges vested in or belonging to the Queen's most Excellent Majesty, her heirs and successors, in right of the duchy of Lancaster.

Saving rights of Crown in foreshore.

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

Saving rights of Crown under 29 & 30 Vict. c. 62.

21. Nothing contained in this Act or to be done under the authority thereof, shall in any manner affect the title to any of the subjects or any rights, powers, or authorities mentioned in or reserved by sections twenty, twenty-one, and twenty-two of the Crown Lands Act, 1866, and belonging to or exerciseable on behalf of Her Majesty, her heirs or successors.

Saving Garston Docks.

22. No vessel entering the docks at Garston (belonging to the London and North-western Railway Company) or any extension thereof from, or leaving those docks for any dock, port, or place not situate within the limits of this Act, shall be liable to the rates or dues by this Act authorised.

Saving Mr. Banner's dock at Garston.

23. No vessel entering the dock at Garston belonging or reputed to belong to John Robert Banner or any extension thereof from, or leaving that dock for any dock, port, or place not situate within the

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limits of this Act, shall be liable to the rates or dues by this Act authorised, neither shall the Commissioners be bound to provide or maintain any buoys, beacons, or lights, or to do any act or thing necessary for lighting or buoying the channel or entrance to that dock; but nothing in this Act or the recited Act contained shall be deemed to prevent the placing and maintaining by the said John Robert Banner, his heirs or assigns, of buoys, beacons, or lights, if any are necessary, for lighting or buoying such channel or entrance.

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24. Nothing in this Act contained shall take away, abrogate, prejudice, or affect any of the estates, rights, or privileges vested in or belonging to the Company of Proprietors of the Mersey and Irwell Navigation.

Saving rights of the Mersey and Irwell Navigation.

25. Saving always and reserving to the Mersey Docks and Harbour Board, and to the mayor, aldermen, and burgesses of Liverpool, and to all lords and ladies of manors, the Bridgewater Navigation Company, Limited, as the assigns or purchasers from the devisees in trust of the late Duke of Bridgewater and the Earls of Ellesmere, and to the Trinity House, and to the Trustees of the River Weaver, and to the London and North-western Railway Company as owners of the Saint Helen's Canal and Railway, and to the Shropshire Union Railways and Canal Company, and to all owners of ancient ferries on the River Mersey, and to all other bodies politic and corporate, and other person and persons, all their several and respective rights and interests in as full and ample a manner as they or any of them could or might have held or enjoyed the same if this Act had not been passed, except so far as by this Act is declared.

General saving of rights.

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

Expenses of Act.

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