



CHAPTER ccv.

An Act to increase the number of the Severn Commissioners; to regulate and alter the Construction of their Weirs; to amend the Severn Navigation Acts; and for other purposes.

A.D. 1881.

[22nd August 1881.]

WHEREAS by divers Acts of Parliament (herein-after referred to as "the Severn Navigation Acts") the Severn Commissioners have been incorporated and empowered to make and maintain works for the improvement of the navigation of the River Severn from the Lower Parting and the entrance lock of the Herefordshire and Gloucestershire Canal respectively in the county of Gloucester to Gladder or Whitehouse brook in the county of Worcester and for those purposes to levy tolls and on the credit thereof to raise various sums of money :

And whereas by the Liverpool Corporation Waterworks Act 1880 the Corporation of Liverpool for the purpose of supplying the city and district of Liverpool with water have been empowered to take impound and use the waters of the rivers Vyrnwy Marchmant and Afon Cowny the waters whereof flow into and form part of the River Severn :

43 & 44 Vict.
c. cxliii.

And whereas the last-mentioned Act contains clauses and provisions for securing compensation water to the Severn Commissioners and other persons and bodies corporate and certain powers are thereby conferred upon the Severn Commissioners with reference to such compensation water :

And whereas the inhabitants of the boroughs of Shrewsbury and Bridgnorth and the conservators of the Severn fishery district are respectively interested in the due supply and regulation of the said compensation water and it is expedient that the councils of the said two boroughs and the said conservators should severally be empowered to elect one Severn Commissioner :

And whereas by the Severn Navigation Act 1869 the Severn Commissioners were authorised to make and maintain a dam or weir across the western channel of the River Severn in the parish of

32 & 33 Vict.
c. ciii.

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Maisemore in the county of Gloucester and a dam or weir across the eastern channel of the said river in the parish of St. Nicholas and the hamlet or extra-parochial place of Llanthony otherwise South Hamlet in the county of Gloucester and the said dams or weirs have been constructed accordingly but doubts have arisen whether such dams or weirs have been constructed in strict accordance with the provisions of the said Act and it is expedient that such doubts should be removed and that further provisions should be made as hereinafter expressed with reference to the said dams or weirs.

And whereas it is expedient that certain provisions of the said Severn Navigation Acts should be respectively repealed and amended in manner herein-after contained :

And whereas it is expedient that the Severn Commissioners be empowered to lengthen the said dam or weir in the parish of Maisemore :

And whereas it is expedient that the Severn Commissioners be authorised to agree with the justices of the peace for the county of Worcester as to alterations to be made by the said justices in a certain bridge called Upton Bridge constructed by them over the said river at Upton-upon-Severn in the county of Worcester :

24 & 25 Vict.
c. 109 &c.

And whereas in the weirs belonging to the Severn Commissioners they have constructed (pursuant to the provisions of various Acts of Parliament and especially of the Salmon Fishery Acts 1861 to 1873) various fish-passes some of which have become or may hereafter become unnecessary and it is desirable that the Severn Commissioners should in manner herein-after appearing be relieved from the obligation of maintaining such fish-passes as the conservators of the Severn fishery district may from time to time agree with the Severn Commissioners have become unnecessary :

16 & 17 Vict.
c. xlvii.
19 & 20 Vict.
c. cxxxii.

And whereas there is now in the hands of the Severn Commissioners a sum of one hundred and thirty-nine pounds three shillings and ninepence under the Severn Navigation Act 1853 and the Severn Navigation Act 1856 or one of them and a sum of two thousand pounds paid to the said Commissioners under the Liverpool Corporation Waterworks Act 1880 to be by them from time to time applied to the improvement of works constructed by them under the Severn Navigation Acts and it is expedient that the said two sums should be applied by them in or towards the purposes hereinafter expressed :

And whereas plans and sections showing the situation lines and levels of the works by this Act authorised and the limits within which the same are to be constructed and a book of reference to the plans containing the names of the owners or reputed owners lessees or reputed lessees and of the occupiers of the lands in the lines of

the proposed works or within the limits of deviation as defined upon the plans and describing such lands have been deposited with the clerk of the peace for the county of Gloucester and those plans sections and book of reference are in this Act respectively referred to as the deposited plans sections and book of reference :

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And whereas the said several objects 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 :—

1. This Act may be cited for all purposes as the Severn Navigation Act 1881.

Short title.

2. The Lands Clauses Consolidation Acts 1845 1860 and 1869 are (except where expressly varied by this Act) incorporated with and form part of this Act.

Incorporation of general Acts.
8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.
32 & 33 Vict. c. 18.

3. In this Act the several words and expressions to which meanings are assigned by the Acts incorporated herewith shall have the same respective meanings as in such Acts respectively unless there be something in the subject or context repugnant to such construction and the expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or any Act incorporated herewith shall be read and have effect as if the debt or demand with respect to which the expression is used were a common simple contract debt and not a debt or demand created by statute.

Interpretation of terms.

4. If any omission mis-statement or erroneous description shall have been made of any lands or of the owners lessees or occupiers of any lands described on the deposited plans or in the deposited book of reference the Severn Commissioners after giving ten days notice to the owners lessees and occupiers of the lands affected by such proposed correction may apply to two justices for the correction thereof and if it shall appear to such justices that such omission mis-statement or erroneous description arose from mistake they shall certify the same accordingly and they shall in such certificate state the particulars of any such omission mis-statement or erroneous description and such certificate shall be deposited with the clerk of the peace for the county of Gloucester and shall be kept by such clerk of the peace along with the plans or book of reference to which it relates and thereupon such plans or book of reference shall be deemed to be corrected according to such certificate and it shall be lawful for the Severn Commissioners to execute the works in accordance with such certificate as if such omission mis-statement or erroneous description had not been made.

Correction of errors in deposited plans &c.

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Certified
copies of
plans &c. to
be evidence.

5. Copies of such plans and book of reference and of any correction thereof or extracts therefrom certified by such clerk of the peace (which certificate such clerk shall give to all parties interested when required) shall be received in all courts of justice and elsewhere as *prima facie* evidence of the contents thereof.

Execution of
Act.

6. This Act shall be put into execution by the Severn Commissioners.

Three Com-
missioners to
be added to
Severn Com-
missioners.

7. From and after the passing of this Act there shall be added to the Severn Commissioners three Commissioners to be elected as by this Act directed and they shall have enjoy and be subject to such and the like powers privileges duties and responsibilities as the Severn Commissioners now have or are subject to by virtue of the several Acts of Parliament relating to the Severn Commissioners or otherwise and shall form and be to all intents and for all purposes part of the body corporate of the Severn Commissioners.

By whom
new Com-
missioners to
be elected.

8. The Commissioners to be elected under this Act shall within three months after the passing of this Act be respectively elected by the councils and the board of conservators herein-after named that is to say :

One by the council of the borough of Shrewsbury in the county of Salop :

One by the council of the borough of Bridgnorth in the county of Salop :

One by the board of conservators of the Severn fishery district.

Mode of
election of
new Com-
missioners.

9. As often as any Commissioner to be elected under this Act shall die refuse resign or become disqualified or incompetent to act the council or board as the case may be by whom such Commissioner shall have been elected shall from time to time elect some other person to be a Commissioner in his stead and the provisions relating to the election of Commissioners contained in the Severn Navigation Acts or any of them shall extend and apply to all elections of Commissioners in pursuance of this Act.

Mode of re-
signation of
Severn Com-
missioners.
5 & 6 Vict.
c. xxiv.

10. The resignation of any Severn Commissioner pursuant to section 2 of the Severn Navigation Act 1842 shall be made by writing testifying his resignation and signed by him and delivered or sent by post to the clerk or other proper officer of the body by whom the Commissioner so resigning shall have been elected and to the clerk of the Severn Commissioners and the resignation of the Commissioner signing the same shall take effect from the time of the receipt of such resignation by the said clerk of the Severn Commissioners.

Construc-
tion of
32 & 33 Vict.
c. ciii. with

11. The provisions of the Severn Navigation Act 1869 which relate to the making and maintenance of the dams or weirs respectively thereby authorised to be constructed at Maisemore in the county

of Gloucester and in the parish of St. Nicholas and the hamlet or extra-parochial place of Llanthony otherwise south Hamlet in the county of Gloucester and to the plans sections and dimensions of such dams or weirs shall be read and construed as having authorised the making and maintenance of such dams or weirs respectively in the lines in which the same respectively have been constructed and of the dimensions stated in section 16 of the same Act and of no other dimensions and so far as the said dams or weirs or either of them are or is of any other dimensions the Severn Commissioners shall before the first day of November 1882 alter the same and make the same of the dimensions stated in the said section 16 save as is provided by section 12 of this Act:

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—
respect to
heights of
weirs.

12. So much of subsection 4 of section 16 of the Severn Navigation Act 1869 as requires that the difference in height between the said dams or weirs at Maisemore and at Llanthony shall not exceed six inches is hereby repealed and notwithstanding anything contained in that Act or this Act it shall be lawful for the Severn Commissioners at any time after the passing of this Act (if they think it necessary for the improvement of the navigation of the River Severn so to do) to lower the topmost level of the said weir at Llanthony so that the difference in height between the said dams or weirs at Maisemore and at Llanthony shall not exceed twelve inches and the alterations of the said weirs pursuant to this and the foregoing section when made by the Severn Commissioners shall be deemed to have been made by them under the powers of the Severn Navigation Act 1869.

Repeal of
part of
section 16 of
32 & 33 Vict.
c. ciii and
provisions as
to heights of
weirs.

13. Subject to the provisions of this Act the Severn Commissioners may make and maintain in the lines and according to the levels shown on the deposited plans and sections (except as otherwise expressly mentioned in this Act) the works herein-after described and may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as may be required for that purpose The works herein-before referred to and authorised by this Act are:

Power to
make an
extension of
Maisemore
weir.

An extension in length of the dam or weir across the western channel of the River Severn in the parish of Maisemore in the county of Gloucester commencing at the western end of the said dam or weir and terminating at a point about fifty feet westwards from such western end together with a dredging or cutting away of part of the western bank of the said river adjoining and in connexion with such extension:

All necessary and proper locks sluices roads drains culverts embankments buildings works and conveniences in connexion

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with or required for the purposes of the before-mentioned works.

Provided that the topmost level of the extension hereby authorised shall not be higher than the topmost level prescribed for the dam or weir at Maisemore by section 16 of the Severn Navigation Act 1869 :

Power to deviate.

14. The Severn Commissioners in making the said works may deviate from the lines thereof delineated on the deposited plans Provided that no such deviation shall extend beyond the limits of deviation marked upon those plans nor into the lands or property of any person whose name is not mentioned in the said book of reference without the previous consent in writing of such person unless the name of such person shall have been omitted by mistake and the fact that such omission proceeded from mistake shall have been certified in the manner herein-before provided And the Severn Commissioners in making the said works may deviate from the levels shown on the deposited sections to any extent not exceeding three feet upwards or three feet downwards except that any deviation in the level of the extension of the said dam or weir shall be subject to the proviso contained in section 13 of this Act.

Protection of Ecclesiastical Commissioners and Bishop of Gloucester.

15. The Severn Commissioners shall from time to time make good and restore any damage which may be caused by reason of the alteration or lengthening of the dam or weir at Maisemore under the provisions of this Act to the banks of any land belonging to the Ecclesiastical Commissioners for England or to the Bishop of Gloucester and situate between that dam or weir and Maisemore Bridge the extent and mode of such making good and restoration to be referred in case of difference to a duly qualified engineer to be appointed by the President of the Institution of Civil Engineers whose decision shall be final and conclusive upon the parties in difference.

Survey by engineer of Maisemore and Llanthony weirs.

16. If any question shall arise between the Ecclesiastical Commissioners for England and the Severn Commissioners as to whether the said dams or weirs at Maisemore and Llanthony are of the dimensions stated in section 16 of the Severn Navigation Act 1869 and this Act the President of the Institution of Civil Engineers shall on the application of either party appoint a duly qualified engineer to make a survey and examination of the said dams or weirs at Maisemore and Llanthony and to ascertain whether such dams or weirs are of the said dimensions and if not to ascertain in what respects and to what extent the said dams or weirs or either of them are or is not of such dimensions and to report thereon to the said Ecclesiastical Commissioners and to the Severn Commissioners and

the Severn Commissioners in pursuance of the directions and subject to the provisions in this Act contained with all convenient speed shall make the alterations (if any) in the said dams or weirs or either of them which shall by the said report be shown to be necessary to make them of the said dimensions and when the Severn Commissioners shall have completed the said alterations (if any) the said engineer or in the event of his death or incapacity to act some other duly qualified engineer to be appointed in like manner shall make a survey and examination of the said dams or weirs as so altered and on his being satisfied that the said dams or weirs are of the dimensions required by section 16 of the Severn Navigation Act 1869 and this Act he shall give a certificate thereof to the Severn Commissioners which shall be final and conclusive as against the said Ecclesiastical Commissioners but not as against any other person. And the Severn Commissioners shall defray the expense of such surveys and examinations.

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17. The Commissioners shall during the whole time of the constructing altering or extending of the works authorised by this Act which are situated below high-water mark of the River Severn exhibit and keep burning at their own expense every night from sunset to sunrise such lights (if any) as the Board of Trade from time to time require or approve.

Lights to be exhibited during construction of works.

18. If the works to be executed by the Severn Commissioners under the authority of this Act or any portion of any such works shall be abandoned or suffered to fall into disuse or decay it shall be lawful for the Board of Trade to abate and remove the same or such part or parts thereof as they may at any time or times deem fit and proper to abate or remove and to restore the site thereof to its former condition at the cost and charge of the Severn Commissioners and the amount thereof shall be a debt due from the Severn Commissioners to the Crown and be recoverable accordingly with costs of suit.

Works abandoned may be removed by Board of Trade at expense of Commissioners.

19. The powers of the Severn Commissioners for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Period for compulsory purchase of lands.

20. On the expiration of five years from the passing of this Act the powers by this Act granted to the Severn Commissioners for executing the works shown on the deposited plans or otherwise in relation thereto shall cease to be exercised except as to so much of the said works as shall then be completed.

Period for completion of works.

21. The Severn Commissioners (subject to the provisions of this Act) may use or sell and dispose of in such manner as they think proper the rock stones gravel sand soil brick clay and other materials

Commissioners may dispose of materials dredged &c.

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Commiss-
sioners may
agree with
justices of
county of
Worcester
as to im-
provements
of Upton
Bridge.

22. The Severn Commissioners on the one hand and the justices of the peace for the county of Worcester in court of quarter sessions assembled on the other hand may from time to time make and carry into effect agreements and arrangements for or with reference to alterations or improvements to be made by the said justices in the said bridge called Upton Bridge in the county of Worcester and for or with reference to any sum or sums of money to be paid to the said justices by the Severn Commissioners in respect of such alterations or improvements and the Severn Commissioners are hereby authorised to pay such sum or sums of money accordingly.

Commiss-
sioners may
stop up fish-
passes by
agreement
with con-
servators.

23. The Severn Commissioners may from time to time cease to maintain and may stop up and remove such fish-pass or fish-passes in any weir or weirs belonging to them in the River Severn as by agreement in writing under the respective corporate seals of the conservators of the Severn fishery district and the Severn Commissioners from time to time shall be declared to be unnecessary and from and after the date of every such agreement the Severn Commissioners may stop up or remove such fish-pass or fish-passes and shall be freed and relieved from all obligations under the Salmon Fishery Acts 1861 to 1873 or the Severn Navigation Act 1869 or otherwise howsoever to repair and maintain the fish-pass or fish-passes referred to in such agreement. Provided always that no fish-pass in any weir shall be stopped up under the powers hereby given unless there shall be in such weir another fish-pass which shall be so altered as to carry away at all times as much water as before such stopping up would have been carried away by the fish-pass or fish-passes in that weir.

Application
of moneys.

24. The Severn Commissioners may as they shall think fit in their discretion apply all or any part of the sum of one hundred and thirty-nine pounds three shillings and ninepence now being in their hands under the Severn Navigation Act 1853 and the Severn Navigation Act 1856 or one of them and all or any part of the sum of two thousand pounds now being in their hands under the Liverpool Corporation Waterworks Act 1880 for or towards the construction of the works and the other purposes authorised by this Act or for or towards the purchase of the undertakings of the towing-path companies mentioned in sections 31 to 35 (both included) and section 72 of the Great Western Railway Act 1878 under and subject to the provisions in that Act contained or for or towards the improvement of the works constructed by the Severn Commissioners under the Severn Navigation Acts or any of them and the interest upon such sum of two thousand pounds until so applied shall be

41 & 42 Vict.
c. ccviii.

carried to the credit of the income of the Severn Commissioners as if it were income arising from tolls. A.D. 1881.

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

26. The Severn Commissioners shall not construct any works on any part of the shore of the River Severn where and so far up the same as the tide flows and reflows without the previous consent of the Board of Trade to be signified in writing and then only according to such plan and under such restrictions and regulations as the said Board approve of such approval being signified as last aforesaid and where any such work shall have been constructed with such consent as aforesaid the Severn Commissioners shall not at any time alter or extend the same without obtaining previously to making any such alteration or extension the like consents or approvals and if any such work shall be commenced or completed without such consent and approval the said Board of Trade may abate and remove the same and restore the site thereof to its former condition at the costs of the Severn Commissioners and the amount of such costs shall be a debt due to the Crown and recoverable against the Severn Commissioners accordingly. Works below high-water mark.

27. Nothing contained in this Act shall authorise the Severn 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 without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give) neither shall anything in this Act contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exerciseable by the Queen's Majesty her heirs or successors. Saving rights of the Crown in the foreshore.

28. 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 21 and 22 of the Crown Lands Act 1866 and belonging to or exerciseable on behalf of Her Majesty her heirs or successors. Saving rights of the Crown under 29 & 30 Vict c. 62.

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Com-
mis-
sioners not
to be ex-
empt from
general Acts.

29. Nothing contained in this Act shall be deemed or construed to exempt the Severn Commissioners from the provisions of any general Act relating to merchant shipping now in force or which may hereafter pass during this or any future session of Parliament and nothing contained in this Act shall prejudice or affect the application to the Severn Navigation or to the Severn Commissioners of any Public General Act passed in the present or any future session of Parliament with reference to the conservancy of rivers or the prevention of injury by floods.

Expenses of
Act.

30. The costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act and the costs charges and expenses incurred by the Earl of Coventry and others preliminary to and of and incidental to the petition presented by them to the House of Lords against the passing of this Act shall be paid by the Severn Commissioners out of any moneys coming to their hands under the Severn Navigation Acts or the Liverpool Corporation Waterworks Act 1880. Provided that such last-mentioned costs charges and expenses incurred by the Earl of Coventry and others shall form a first charge upon the said sum of two thousand pounds received by the said Commissioners under the Liverpool Corporation Waterworks Act 1880.