CHAPTER xlix.

An Act for authorising the Mersey Docks and Harbour Board to acquire and work vessels for the pilotage service of the port of Liverpool to borrow moneys for that purpose and to make byelaws for regulating the division amongst pilots of pilotage earnings and for altering the times of vacation of office by members of the Board and the times of nomination election and appointment of new members. A.D. 1881.

[3rd June 1881.]

WHEREAS by virtue of the Mersey Dock Acts Consolidation Act 1858 (herein-after referred to as "the Consolidation Act 1858") the Mersey Docks and Harbour Board (herein-after referred to as "the Board") have the regulation and management of pilots and of pilot boats for the port of Liverpool and of the pilotage annuity fund: 21 & 22 Vict. c. xcii.

And whereas by the Consolidation Act 1858 the Board are empowered to license boats to be used for the pilotage service of the port of Liverpool and by the same Act it is provided that it shall not be lawful except as therein mentioned for any person other than a pilot and so long only as he shall possess a license to act as a pilot to hold any share or to have any interest in any pilot boat licensed by the Board:

And whereas by the Consolidation Act 1858 it is provided that in order to maintain and keep up the pilotage annuity fund mentioned in the said Act the collector of pilotage rates shall set aside the sum of one and a half per cent. out of the gross earnings or total amount of the rates on pilotage of each of the pilot boats their masters and crews respectively and for some time past the sum so set aside has at the request of the licensed pilots including the boat owners been increased to the sum of 3 per cent. and it is contemplated that in the same manner the sum set aside may be still further increased:

And whereas it is expedient that the boats licensed for the pilotage service of the port of Liverpool should be acquired by and vested in the Board:

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And whereas the owners of the boats so to be acquired by the Board are numerous and it is expedient that provision should be made for the appointment of committees of such owners to be empowered to agree with the Board as to the purchase money to be paid to such owners and that failing agreement between the Board and such committees the amount of such purchase money should be settled by arbitration:

And whereas it is expedient that the Board should be empowered hereafter to acquire maintain and work such vessels with such motive power as they shall from time to time think most advantageous for the pilotage service of the port of Liverpool and that no vessels other than those maintained and worked by the Board should be employed in the said pilotage service:

And whereas it is expedient that the Board should be empowered to make byelaws for regulating the collection and payment apportionment and distribution amongst pilots of pilotage earnings:

20 & 21 Vict. c. clxii.

And whereas it is expedient that the provisions of the Mersey Docks and Harbour Act 1857 and of the Consolidation Act 1858 in reference to the times of retirement from office of members of the Board and of the election and appointment of new members should be altered:

And whereas the objects of this Act 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 Mersey Docks Act 1881.

Part of 21 & 22 Vict. c. xcii. as to meaning of words incorporated.

2. So much of the Consolidation Act 1858 as relates to the meanings to be assigned to certain words and expressions (being section 3 of that Act) except so far as such meanings are inconsistent with this Act shall be incorporated with this Act.

Powers to purchase and hold licensed pilot boats.

3. The Board may at any time hereafter purchase and acquire and take all rights of possession and ownership of and in the boats or vessels which may then be licensed to be used for the pilotage service of the port of Liverpool together with the punts sails stores tackle and gear of all descriptions thereto belonging.

Provided always that the Board shall not have the power of purchasing or acquiring any one or more of such boats or vessels by agreement or otherwise without at the same time purchasing and acquiring the whole of the boats or vessels then licensed as aforesaid.

Purchase by agreement.

4. A majority in number of the owners of shares in any such boat or vessel as aforesaid holding a majority of the shares therein may appoint a committee (not exceeding three in number) to negotiate and agree with the Board for the sale to them of that boat or vessel with the punts sails stores tackle and gear of all descriptions thereto belonging. And any agreement made with the Board by any such committee shall be binding upon all others the owners of such boat or vessel and such committee or the survivors or survivor of them shall have power to receive the purchase money agreed to be paid by the Board for that boat or vessel and to give full and sufficient receipts and discharges for the same and to do all things necessary to transfer to the Board the ownership and possession of such boat or vessel with the punts sails stores tackle and gear of all descriptions: Provided that every such agreement or transfer shall be conditional upon and shall only take effect when the Board shall have acquired the whole of the boats or vessels for the time being licensed as aforesaid.

In default of agreement Board may acquire boats the amount of purchase money being settled by an arbitrator.

5. If the owners of any such pilot boat shall not within three months after the passing of this Act appoint a committee as hereinbefore provided or if within nine months after the passing of this Act no agreement be come to between the committee appointed in respect of any boat and the Board as to the amount of the purchase money as aforesaid the Board may if in their discretion they shall think proper so to do by notice in writing signed by the chairman for the time being of the Board such notice being given within twelve months from the passing of this Act and inserted twice in two newspapers published in Liverpool declare their intention of purchasing the whole of the boats and vessels then licensed to be used for the pilotage service of the port of Liverpool together with the punts sails stores tackle and gear of all descriptions thereto belonging and thereupon the amount of purchase money to be paid in respect of the boats as to which no agreements for purchase shall have been made as aforesaid shall be settled and determined by an arbitrator to be appointed upon the application of the Board by the Board of Trade and the decision of the arbitrator so appointed shall be binding and conclusive on all parties interested.

Mode of ascertaining purchase money of boats.

6. In determining the purchase money to be paid by the Board for any such boat or vessel as aforesaid the arbitrator shall take into account the sum of money which shall in his opinion be equal to the intrinsic worth of such boat or vessel having regard to the then state thereof and shall add thereto such a sum for the privilege of such boat or vessel as in his opinion shall be a reasonable compensation for such privilege and to the aggregate amount thus arrived at the

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arbitrator may if he shall think fit add such a sum in respect of compulsory sale as having regard to all the circumstances of the case he shall deem fair and reasonable. On the hearing of such arbitration the owners of each boat included in such arbitration shall be entitled to be heard as to the value of such boat and the privilege thereof and the arbitrator shall by his award find and declare the aggregate amount of the value of each such boat as aforesaid.

Costs of arbitration. 8 & 9 Vict. c. 18.

7. The provisions of the Lands Clauses Consolidation Act 1845 in regard to costs of arbitration under that Act shall apply to the costs of the arbitration provided for by this Act as if the boats were land within the meaning of that Act and for that purpose the Board shall be deemed to be the promoters of the undertaking: Provided always that the Board shall not in any case be liable to pay in respect of costs of the said arbitration any greater sum than the amount of costs which would have been payable if all the owners of the boats included in such arbitration had been jointly represented by one and the same solicitor and by one and the same set of counsel and such costs if any shall be paid to such of the boat-owners in such proportions as the arbitrator shall by his award direct.

Costs payable to Board may be deducted from purchase money.

8. If on taking up the award of the arbitrator the Board should pay any portion of the costs of the arbitrator which are legally payable by the owners of any of the boats included in such arbitration the Board may deduct the amount of such costs from the purchase money payable to the owners of such boat or boats.

Upon payment to committee on tender or payment into Court Board to be entitled to possession of the boats &c.

9. The Board may pay the purchase money for any such boat or vessel as aforesaid when the same has been settled and determined as aforesaid to the committee appointed in respect of that boat or vessel or the survivors or survivor of them and if they or he shall refuse to receive such payment or if there be no such committee or no survivor thereof then the Board may pay the same to such owners or at the discretion of the Board into the Chancery Division of the High Court of Justice in England under any Act for the time being in force for the relief of trustees and the Board from and after such payment shall be entitled to the absolute ownership and possession free from incumbrances of the same boat or vessel and of all punts sails stores tackle and gear of all descriptions thereunto belonging or appertaining and the said Chancery Division may upon petition by any person interested in a summary manner make such order as to payment of the purchase money paid in as aforesaid or such other order in respect thereto for the benefit of the parties interested as it shall think fit.

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Power to the Board to acquire vessels for pilotage service and to sell such vessels.

10. So soon as the Board shall have acquired and taken possession of all the boats or vessels for the time being licensed under the provisions of the Consolidation Act 1858 for the said pilotage service the Board may from time to time build purchase or hire and employ in the said service any and as many other boats or vessels (of whatsoever kind and howsoever propelled) as shall in their opinion be required for that service. And the Board may in their discretion at any time alter sell or exchange any boat or vessel belonging to them and built or acquired for the pilotage service and may also in their discretion at any time diminish or increase the number of boats or vessels engaged in that service.

The Board may control the working &c. of boats and vessels used for the pilotage service.

11. The Board may employ any of the boats and vessels which may have been acquired by them for or appropriated by them to the purposes of the pilotage service of the port of Liverpool in any such manner for and in connexion with that service as they may from time to time in their discretion think proper. They shall have full discretion and power in the management working victualling repairing maintenance and alteration of all such boats and vessels and their punts sails machinery stores tackle and gear of all descriptions and may incur all expenses that may in their judgment be needful for those purposes and may also if they think fit insure all or any of such boats or vessels and it shall be lawful for the Board for all or any of the purposes aforesaid to engage and dismiss such officers seamen workmen servants and others on such terms as to salary wages or otherwise as they shall from time to time think proper.

Board to be entitled to a pilot boat rate from vessels liable to pay pilotage.

12. So soon as the Board shall have acquired and taken possession of all the boats or vessels for the time being licensed under the provisions of the Consolidation Act 1858 for the said pilotage service a rate to be called the pilot boat rate may be from time to time made and shall thenceforward be paid to the Board in respect of every vessel entering or leaving the port of Liverpool which may be liable in respect of such entering or leaving to pay pilotage rates.

Amount of such rate.

13. The pilot boat rate payable in respect of any vessel liable to pilotage rates shall be an amount equal to thirty-eight per centum on the amount of the pilotage rates for the time being payable in respect of such vessel. But the Board may from time to time vary the same as they may think proper but so that it shall not at any time exceed the amount or per-centage lastly herein-before mentioned. And the said pilot boat rate shall be payable to the Board by the owners and master of every vessel liable to pilotage rates as aforesaid and by every person taking upon himself the charge agency or consignment of such vessel at the time and in the manner

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prescribed by the Consolidation Act 1858 for the payment of tonnage rates (*a*) and shall be recoverable at the option of the Board in any court of competent jurisdiction as if the rate were a simple contract debt and not a debt or demand created by statute or in the manner prescribed by the Consolidation Act 1858 for the recovery of dock tonnage rates (*b*) or of pilotage rates (*c*) and section 253 of the Consolidation Act 1858 shall be deemed to extend to and include the pilot boat rate payable as above mentioned: Provided always that the aggregate amount of the sums from time to time payable for pilot boat rates and pilotage in respect of any vessel shall not in any case exceed an amount equal to the maximum rates of pilotage which might be charged in respect of such vessel under the 133rd section of the Consolidation Act 1858.

Three and a half per cent. of pilot boat rates to be paid to the pilotage annuity fund.

14. From and after the time when pilot boat rates shall become payable to the Board as aforesaid they shall in the month of August in each year pay to the pilotage annuity fund described in the Consolidation Act 1858 to be applied as part of such fund the same per-centage not in any case exceeding three and a half per cent. on the total amount of the pilot boat rates received by the Board during the twelve months then next preceding as shall be paid by the whole body of the pilots for the time being on all pilotage earnings received by them during the same period.

Further borrowing powers.

15. The Board may borrow at interest on security of the rates for the time being belonging to them (exclusive of any sum or sums of money required for the completion of the Birkenhead Docks and works and for the purposes specially provided for by the Mersey Docks and Harbour Act 1857) any sum or sums which may be required for the purposes of this Act. All moneys borrowed by the Board under the authority of this Act shall be applied by them to the purposes of this Act and not otherwise.

A separate account to be kept of pilot boat receipts and expenditure.

16. A separate account to be called the "pilot boat account" shall be kept by the Board and there shall be carried to the credit of that account all moneys borrowed or received by them under or by virtue of this Act including all moneys arising from any sales or insurances of any boats or vessels acquired by them for the purposes of this Act all moneys received by the Board as owners of such boats or vessels collected by them as pilot boat rates and all moneys which may be received by the Board as owners of such boats or vessels for compensation for any damage done to or for the loss of such boats or any of them including demurrage if any and all moneys that shall be paid or expended by the Board in acquiring hiring maintaining insuring repairing altering managing or working the boats and vessels to be employed by the Board in the said

pilotage service and otherwise in effecting the purposes of this Act and all interest payable upon moneys borrowed for those purposes shall be carried to the debit of the said pilot boat account.

Application of balance of pilot boat account.

17. The Board may apply any balance from time to time standing to the credit of the said pilot boat account to any of the purposes of this Act or in the repayment of any moneys borrowed for any of those purposes and interest thereon or in satisfying all claims damages costs and expenses which may be incurred by the Board or to which they may become liable in and incidental to the carrying out of the powers and provisions of this Act or in establishing and maintaining such a renewal fund as they may think requisite for the maintenance repair improvement alteration and replacement of the boats vessels and other property to be employed by the Board in the said pilotage service and such application of moneys may be made by the Board for all or any of the above purposes in any order with respect to priority which they shall deem expedient.

Application of surplus moneys from the pilot boat account.

18. If any residue or surplus of such money shall remain in the hands of the Board after such application as aforesaid and after making such provision as the Board shall from time to time think reasonable in aid of future expenditure for all or any of the purposes of this Act and for the establishment and maintenance of such renewal fund as aforesaid the Board shall in or as soon as may be after the month of August in every year apply such residue or surplus in or towards the repayment of any principal moneys which shall have been borrowed by the Board under the powers of this Act until all such principal moneys shall have been repaid and when all such principal moneys shall have been repaid then and in such case the Board shall and they are hereby required to reduce the amount of the pilot boat rates to be thereafter paid to them so far as the same can be done consistently with leaving sufficient provision for the future expenditure by the Board authorised by this Act and for the maintenance of a renewal fund as above mentioned: Provided always that the Board may from time to time again raise the said rate subject to the provisions herein-before set forth.

On acquisition of licensed pilot boats by Board certain provisions of 21 & 22 Vict. c. xcii. to be repealed and

19. When and so soon as the Board shall under the provisions of this Act have purchased or acquired and taken possession of all the boats or vessels for the time being licensed to be used for the pilotage service of the port of Liverpool as aforesaid sections 150 to 158 (both numbers inclusive) of the Consolidation Act 1858 and so much of section 163 of the Consolidation Act 1858 as relates to salvage services rendered to any vessel or to any of the appur-

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no boats to be used as pilot boats except boats of the Board.

tenances or to any portion of the cargo thereof by any pilot boat shall be by this Act repealed but without prejudice to the recovery of any penalty theretofore incurred thereunder and thenceforth it shall not be lawful for any pilot to use as a pilot boat or for pilotage purposes any boat or vessel except a boat or vessel belonging to or hired by the Board and assigned and employed by them for the time being to and for the said pilotage service and every pilot who shall use any other boat or vessel as a pilot boat or for pilotage purposes shall be liable to a penalty of three pounds three shillings for every day or portion of a day on which he shall so use any such boat or vessel and shall also be liable to have his license suspended or forfeited by the Board as the Board in their discretion may think fit. Any such penalty as aforesaid may be recovered and enforced in the manner provided by section 326 of the Consolidation Act 1858.

Claims by Board as owners of pilot boats.

20. No claim whatever shall at any time or on any account be made or attempted to be made directly or indirectly by legal process or otherwise by the Board as owners of any pilot boat or by any person acting in any capacity on board any such boat and not being a licensed pilot upon the master or owner of any vessel or any other person for or in respect of any salvage services rendered to such vessel or to any of the appurtenances or to any portion of the cargo thereof by any such boat or person except so far as may be necessary for the recovery of the value of any vessel or effects which may be lost or any actual damage or injury which may be caused to such vessel or persons in rendering or attempting to render any such salvage service including demurrage for the loss of the service of such vessel consequent on such damage or injury.

Apprentices.

21. So soon as the Board shall have acquired and taken possession of any of the said boats or vessels all persons who may then be serving under indentures as apprentices to the master or masters of such boats or vessels and may within two months after the Board have acquired such boats or vessels give notice in writing to the Board of their desire to become apprentices to the Board shall be entitled to be apprenticed to the Board accordingly and the Board shall pay all reasonable expenses if any of the transfer or assignment of the indentures of apprenticeship and shall after the transfer or assignment stand in the place of such master or masters respectively and such master or masters shall thenceforth be discharged from any subsequent performance of any engagements contained in such indentures: Provided that nothing herein contained shall relieve any master or any apprentice from any liability theretofore incurred for any breach of the engagements of such indentures: In the case of any apprentice who shall not give such

notice as aforesaid the Board shall afford all reasonable facilities for enabling the terms of the indenture of apprenticeship to be carried out by both parties to the indenture. A.D. 1881.

Power to make byelaws as to collection &c. of pilotage rates and division of pilotage earnings.

22. The Board may from time to time make such byelaws as they shall think expedient for regulating the collection and payment of all pilotage rates and earnings and for regulating the manner and times of distributing such rates and earnings among the respective classes of pilots entitled thereto and the proportions in which those classes of pilots shall be so entitled and all byelaws made under this section shall be deemed to be byelaws made under section 221 of the Consolidation Act 1858.

Board not to be liable for acts of pilots.

23. The Board may exercise all or any of the powers in this Act contained without becoming liable in any respect for the acts neglects or defaults of any pilot when engaged in pilotage duties.

Powers of Board to be transacted through pilotage committee.

24. The powers of the Board as owners of pilot boats shall be deemed to be part of the ordinary pilotage business of the Board and shall as such be transacted through the pilotage committee of the Board subject to the control of the Board.

Repeal of portions of s. 27 of 21 & 22 Vict. c. xcii.

Senior nominee member to retire on 20th December in each year.

25. Sub-sections 1 and 2 of section 27 of the Consolidation Act 1858 shall be and the same are hereby repealed and in lieu thereof it is hereby enacted as following viz. :—

1. The nominee member of the Board who may then have been longest in office shall retire from office on the 20th day of December in this and in every succeeding year and the vacancy so occasioned shall be forthwith filled up by the Conservancy Commissioners of the River Mersey.

Repeal of s. 28 of 21 & 22 Vict. c. xcii.

Six senior elective members of the Board to retire on 20th December in each year.

26. Section 28 of the Consolidation Act 1858 shall be and the same is hereby repealed and in lieu thereof it is hereby enacted as follows viz. :—

On the 20th day of December in this and in every succeeding year the six elective members of the Board who shall then have been longest in office shall retire therefrom and on every such periodical retirement as aforesaid six duly qualified persons shall in the manner prescribed in that behalf by the Mersey Docks and Harbour Act 1857 as varied by the Consolidation Act 1858 and by this Act be elected to supply the vacancies and every new member may remain in office for four years and no longer.

Alteration of s. 21 of 20 & 21 Vict. c. clxii.

27. Section 21 of the Mersey Docks and Harbour Act 1857 shall be read and construed as though in relation to the election of elective members of the Board to take place hereafter the word

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"December" were substituted in the third line of that section for the word "January."

Sub-sections 1 and 2 of the said section 21 shall be repealed and in lieu thereof it is hereby enacted as follows viz. :—

(1.) The chairman of the Board for the time being or some person appointed by him shall be the returning officer.

(2.) In this and in succeeding years the nomination of new members of the Board shall take place on the 20th day of December.

Alteration of s. 22 of 20 & 21 Vict. c. clxii.

28. Section 22 of the Mersey Docks and Harbour Act 1857 shall be read and construed as though in relation to the election of members of the Board to take place in this and in succeeding years the word "December" were substituted in the third line of that section for the word "January."

Sub-section (1) of the said section 22 shall be and the same is hereby repealed and in lieu thereof it is hereby enacted as follows viz. :—

(1.) When a poll is demanded the returning officer shall direct the same to be taken at such place or places within the city of Liverpool and the borough of Birkenhead and on such day not exceeding three clear days from the day of nomination as he may determine.

Expenses of Act.

29. The Board out of any moneys for the time being in their hands shall pay and discharge all costs charges and expenses incurred in applying for obtaining and passing this Act.

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