CHAPTER xlii.

An Act to amend the Acts relating to the Severn Navigation and to confer further powers on the Severn Commissioners and for other purposes. A.D. 1914.

[8th July 1914.]

WHEREAS by the Severn Navigation Acts 1842 to 1890 the Severn Commissioners (herein-after called "the Commissioners") have been incorporated and empowered to make and maintain works for the improvement of the River Severn from the Lower Parting at Portham Mead and the entrance lock of the former Herefordshire and Gloucestershire Canal respectively in the county of Gloucester to Gladder or Whitehouse Brook in the county of Worcester (herein-after referred to as "the river") and by the same Acts powers have been conferred on the Commissioners for (among other things) the levying of tolls on certain classes of vessels navigating on the river and for the regulation of traffic thereon and for the prevention of obstruction to the navigation of the river:

And whereas the western branch of the River Avon flows into the river above the town of Tewkesbury and for the convenience of traffic between the town of Tewkesbury and the river it is expedient that the Commissioners should be empowered to dredge that branch of the said River Avon from the lock at Tewkesbury to its junction with the river:

And whereas it is expedient that powers as in this Act provided should be conferred on the Commissioners in relation to the provision of landing places and other conveniences for traffic the repair of works on the banks of the river the prevention or removal of obstructions to the navigation of the river the making of byelaws and other matters:

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And whereas it is expedient that the other provisions contained in this Act should be made in relation to the Commissioners and their undertaking:

And whereas it is expedient that the county councils of the counties of Worcester and Gloucester and the corporations of the cities or boroughs interested in the river should be authorised to contribute towards the costs of the Bill for this Act:

And whereas the objects 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 King'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:—

Short and collective titles.

1. This Act may be cited as the Severn Navigation Act 1914 and the Severn Navigation Acts 1842 to 1890 and this Act may be cited together as the Severn Navigation Acts 1842 to 1914.

Incorporation of certain provisions of Harbours Docks and Piers Clauses Act.

2. Sections 14 15 24 28 99 and 100 of the Harbours Docks and Piers Clauses Act 1847 are hereby incorporated with this Act Provided that these sections shall extend and apply to the wharves piers landing places and locks by this Act authorised to be erected by the Commissioners or for the time being belonging to them and for that purpose the expression "harbour dock or pier" in the said Act shall be deemed to include the river and the said wharves piers landing places and locks:

Provided also that in the said Act of 1847 the expressions "packet boat" and "post office packet" shall mean respectively a vessel employed by or under the Post Office or the Admiralty for the conveyance under contract of postal packets as defined by the Post Office Act 1908 and the expression "post office bag of letters" shall mean a mail bag as defined by the same Act but nothing in the said Act of 1847 or in this Act shall extend to exempt from rates or duties any such vessel as aforesaid if she also conveys passengers or goods for hire.

Interpretation.

3. In this Act unless there be something in the subject or context repugnant to such construction—

The several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings;

The expression "the Commissioners" means the Severn Commissioners;

The expression "the river" means the River Severn within the jurisdiction of the Commissioners;

The expression "vessel" includes any ship lighter keel barge launch houseboat pleasure boat randan wherry skiff dinghy shallop punt canoe yacht raft float of timber or any other boat or craft however navigated or propelled;

The expression "passenger vessel" means any vessel constructed or used for carrying passengers for pay or hire and propelled by mechanical means and includes a vessel constructed or used for carrying passengers for pay or hire and hauled by any other vessel so propelled but does not include a ferry boat worked by chains or other mechanical means between two fixed points;

The expression "pleasure boat" includes any ship launch boat houseboat randan wherry skiff dinghy shallop punt canoe or yacht not being used solely as a tug or for the carriage of goods and not being a passenger vessel as above defined;

The expression "pleasure boat for hire" means a pleasure boat let for hire or used or intended to be used for any purpose of profit;

The expression "the Act of 1842" means the Severn Navigation Act 1842;

The expression "the Act of 1869" means the Severn Navigation Act 1869;

The expression "the Act of 1890" means the Severn Navigation Act 1890.

Dredging of part of River Avon.

4. The Commissioners may with the consent of the riparian owners from time to time if and so far as they may think necessary for the purposes of navigation dredge scour deepen improve and maintain the western branch of the River Avon between the lock on that river at Tewkesbury and the junction of the said river with the river and may use sell and dispose of in such manner as they may think proper the mud soil gravel sand and other materials dredged or removed from the said river and may enter into and carry into effect agreements with the owner of any land for depositing the same upon the land of such owner.

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Commissioners may erect landing places.

5. The Commissioners may from time to time as they shall think necessary for the convenience of the public erect on land belonging to them at convenient places wharves piers or landing places of such form and construction as they shall consider most advantageous to the public and causing the least obstruction to the navigation of the river and may from time to time alter and vary the form and construction of any such wharf pier or landing place and may from time to time shut up or take away and remove the same without being obliged to erect or provide any other wharf pier or landing place in lieu thereof and may by agreement with the owner and occupier thereof exercise the like powers on any land not belonging to the Commissioners on such terms and conditions as may be agreed upon.

Mooring chains may be fixed and maintained.

6. The Commissioners may from time to time fix and maintain in such situations in the river as they may think fit such mooring chains as they may think necessary or convenient Provided that no mooring chain shall be fixed in such a position as to interfere with the use of any salmon draught existing at the passing of this Act.

Removal of sunken or unseaworthy vessels.

7.—(1) If at any time after the passing of this Act any vessel shall be sunk or stranded in any part of the river and the owner master or person in charge of such vessel shall not after reasonable notice in writing from the Commissioners requiring him so to do weigh draw up or remove the same it shall be lawful for the Commissioners or any person authorised by them to weigh draw up or remove such vessel and the lading thereof to any place they may consider suitable either on or off the river and to detain and keep the same with the tackle and lading thereof until payment be made of all the expenses of or connected with such weighing drawing up removal and detention.

(2) In addition and without prejudice to the powers conferred on the Commissioners by the preceding subsection of this section the Commissioners may break up any vessel which they may desire to remove under the provisions of that subsection.

(3) The Commissioners may (subject to such notice being given of the intended sale as is prescribed by the first proviso to section 530 of the Merchant Shipping Act 1894) sell by public auction or private sale at their discretion any vessel so weighed drawn up removed or detained by them and the tackle

and lading thereof or the materials thereof if broken up or a sufficient part thereof to pay the expenses of such weighing drawing up removal breaking up or detention and may out of the proceeds of sale pay such expenses and the expenses of sale and shall return to the owner of such vessel the overplus (if any) on his demanding the same and if the proceeds of sale be insufficient to defray the expenses aforesaid the Commissioners may recover the deficiency from the person who was the owner of the vessel at the time of the sinking or stranding thereof or the weighing drawing up or removal of the vessel by the Commissioners as the case may be in any court of competent jurisdiction or summarily as a civil debt and the Commissioners may destroy or otherwise dispose of any of the said materials which they may find unsaleable Provided that before the sale or destruction of any goods the Commissioners shall pay the customs duties and excise duties if any payable thereon.

(4) The Commissioners may if they think fit without exercising the power of sale conferred on them by this section recover the expenses referred to in the preceding subsection in manner provided by that subsection from the person who was the owner of the vessel at the time of the sinking or stranding thereof or the weighing drawing up removal or breaking up of the same by the Commissioners.

(5) Section 221 of the Act of 1842 is hereby repealed but without prejudice to any acts done or proceedings taken in pursuance of that section previously to the passing of this Act.

Works on river to be approved by Commissioners.

8.—(1) If any person shall propose to construct any wharf pier or artificial bank not authorised by special Act of Parliament or Provisional Order confirmed by Parliament so that the same shall project into the river or any bridge over the river not authorised in manner aforesaid (herein-after referred to as "the proposed work") he shall give notice in writing thereof to the Commissioners stating the nature of the proposed work and the mode and position in and the materials of which the same is intended to be constructed and if in the opinion of the engineer of the Commissioners the proposed work is of such a nature as to require the special consideration of the Commissioners such person shall upon the request in writing of the said engineer supply him with a plan of the proposed work and such further particulars as the said engineer shall reasonably require.

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(2) The Commissioners may approve the proposed work either with or without alteration or if they deem the proposed work likely to interfere with the navigation of the river they may disapprove the same and shall intimate their approval or disapproval thereof to the person proposing to construct the same within twenty-eight days from the date of service of the said notice or the providing of such plan and particulars as aforesaid if the same be required failing which they shall be deemed to have approved thereof.

(3) The proposed work shall not be commenced until the Commissioners have approved or are to be deemed to have approved of the same and shall be constructed as approved or deemed to be approved by the Commissioners and not otherwise and shall be carried out under the superintendence (if the same be given) and to the satisfaction of the engineer of the Commissioners.

(4) If any person shall act in contravention of the provisions of this section he shall be liable to a penalty not exceeding five pounds and to a penalty not exceeding one pound for each day on which the offence is continued after conviction therefor.

(5) Provided that no bank shall for the purposes of this section be deemed to be artificial by reason only of the owner or occupier thereof having constructed works for the protection thereof.

Wharves &c. to be repaired.

9. If any wharf pier or artificial bank is insecure or out of repair so as to be dangerous to any person passing along the river or to any vessel either moored alongside of or passing by the same or is in any manner injurious to the free navigation of the river the Commissioners may by notice in writing served on or sent by post to the owner of such wharf pier or bank or if such owner cannot be found left upon or affixed to such work as aforesaid or in some position near or adjoining thereto require such owner to repair or put the same into good working order and condition as the case may require to the reasonable satisfaction of the engineer of the Commissioners within a time (not being less than three months after the service thereof) to be specified in such notice and in case the owner does not comply with such notice within the time so specified the Commissioners may cause such works to be done as they may think proper for giving effect to the requirements of the Commissioners and the expenses thereof shall be payable by such

owner and may be recovered by the Commissioners summarily as a civil debt The expression "artificial bank" in this section does not include the bank of the river repaired or strengthened by faggots or in any other like manner approved by the Commissioners.

Removal of trees obstructing navigation &c.

10. Whenever the navigation of the river is obstructed by any tree bush shrub or projection (other than a fence between the low summer water level of the river and the top of the bank of the river) the Commissioners may by notice in writing served on or sent by post to the owner or occupier of the land whereon such tree bush or shrub grows or projection is fixed require such owner or occupier to cut prune or lop such tree bush or shrub or to remove such projection so that the navigation of the river be not obstructed thereby within a time to be specified in such notice and in case the owner or occupier does not comply with such notice within the time so specified the Commissioners may cut prune or lop such tree bush or shrub or remove such projection doing no unnecessary damage.

Appeal against requisition or decision of Commissioners.

11. If any person shall deem himself aggrieved by the erection or intended erection of any wharf pier or landing place or the fixing of any mooring chain under the sections of this Act of which the marginal notes are respectively—

"Commissioners may erect landing places";

"Mooring chains may be fixed and maintained";

or by any requisition or decision of the Commissioners under the sections of this Act of which the marginal notes are respectively—

"Removal of sunken or unseaworthy vessels";

"Works on river to be approved by Commissioners";

"Wharves &c. to be repaired";

"Removal of trees obstructing navigation &c.";

such person may appeal to a petty sessional court and shall give two clear days written notice of such appeal and of the grounds thereof to the clerk to the Commissioners and on such appeal the court shall have power to make such order as they see fit and to award costs and such costs shall be recoverable summarily as a civil debt Provided that such appeal shall be brought not later than fourteen days after the Commissioners have commenced to erect any such wharf pier or landing place or have fixed any such mooring chain or after notice of such requisition or intimation of such decision shall have been given to such person.

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Owner to afford information as to person in charge.

12. In case any complaint shall be made to the Commissioners as to the navigation of a passenger vessel or pleasure boat on the river the owner thereof shall upon the application in writing to him of the clerk to the Commissioners for that purpose give all information in his power to the clerk as to the person who at any particular time was in charge of such vessel or boat and any owner refusing or neglecting to give such information shall be liable to a penalty not exceeding five pounds.

Passenger vessels and pleasure boats to be deemed to be in charge of one person.

13. Every passenger vessel and pleasure boat on the river shall be deemed to be in charge of one person who shall in every case be the owner of such vessel or boat or a person duly appointed or permitted by him to be in charge thereof or the person hiring such vessel or boat and in the absence of any such person then any person having control or being in command of such vessel or boat.

Person in charge to be responsible for order.

14. The person for the time being in charge of a passenger vessel or pleasure boat on the river shall be responsible for the conduct of all persons on board such vessel or boat and upon proof that an offence has been committed against any of the provisions of the Severn Navigation Acts 1842 to 1890 or of this Act or of any byelaw made under those Acts or this Act by any person on board such vessel or boat and that the person in charge of such vessel or boat has refused to give the name and address of the person so offending then the person in charge of such vessel or boat shall be liable to a penalty not exceeding five pounds.

Penalties for intoxication and use of abusive or indecent language &c.

15. Any person engaged in navigating or employed on or using or being in upon or about the river or the banks or towing-paths thereof or any land of the Commissioners who shall be intoxicated or make use of obscene abusive or indecent language to any officer of the Commissioners whilst employed in the performance of the duties of his office or to the annoyance of any person who shall be in upon or about the river or the banks or towing-paths thereof or any land of the Commissioners or who shall obstruct any officer of the Commissioners in the execution of his duty shall be liable to a penalty not exceeding five pounds.

Byelaws.

16. In addition to the purposes for which the Commissioners are by section 210 of the Act of 1842 as amended by section 43 of the Act of 1890 authorised to make byelaws the

Commissioners may make such byelaws as they think fit for all or any of the following purposes (that is to say):—

For the good rule government and regulation of the traffic on and the navigation of the river and of persons using the river and the prevention of misconduct and of offences against good order thereon;

For the prevention of obstructions to the navigation of the river and to the use for navigation purposes of the towing-paths thereof and works in connexion therewith;

For compelling vessels on the river to exhibit lights from sunset to sunrise;

For regulating the anchoring and mooring of vessels in the river and for preventing vessels anchoring mooring or remaining stationary for an unreasonable time in the river or against the banks thereof or at any wharf quay pier jetty or landing place;

For requiring and regulating the use by vessels in the river of mooring chains provided by the Commissioners;

For preserving notice boards and other works and things set up by the Commissioners;

For regulating the use of ferry boats on the river;

For regulating the number of persons to be carried on pleasure boats for hire which are not subject to any such regulation under a byelaw made by a local authority;

For regulating the payment and receipt of tolls fees and charges payable to the Commissioners;

and may from time to time by byelaw alter or repeal any byelaw made under this Act.

Confirmation of byelaws.

17. The provisions of sections 182 to 185 of the Public Health Act 1875 shall apply to all byelaws made by the Commissioners under the Severn Navigation Acts 1842 to 1890 or this Act Provided that in the application of the said sections to byelaws made by the Commissioners the Board of Trade shall be substituted for the Local Government Board and references to the said Public Health Act 1875 shall be construed as references to the Severn Navigation Acts 1842 to 1890 and this Act and references to the local authority the office of the local authority and to ratepayers shall be construed as references to the Commissioners the office of the Commissioners and all persons respectively.

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Recovery of penalties and tolls.

18.—(1) Save as otherwise by this Act expressly provided all offences against the Severn Navigation Acts 1842 to 1890 or this Act and all penalties forfeitures costs and expenses imposed or recoverable under those Acts or this Act or any byelaw made in pursuance thereof respectively may be prosecuted and recovered in a summary manner Provided that costs or expenses except such as are recoverable along with a penalty shall not be recovered as penalties but may be recovered summarily as civil debts.

(2) For the purpose of giving jurisdiction an offence against the Severn Navigation Acts 1842 to 1890 or this Act or any byelaw made in pursuance thereof respectively shall be deemed to have been committed either in the place in which it was actually committed or in any place in which the offender may be.

(3) Sections 231 to 233 and sections 235 to 243 all inclusive of the Act of 1842 are hereby repealed but without prejudice to proceedings under any of those sections which may have been commenced prior to the passing of this Act.

As to general meeting of Commissioners.

19.—(1) From and after the passing of this Act the general meeting of the Commissioners shall be held annually on such date and at such place and hour as the general purposes committee of the Commissioners shall from time to time determine.

(2) Section 7 of the Severn Navigation Act 1844 and section 51 of the Act of 1869 are hereby repealed.

Signature to minutes of meetings.

20. The minutes of every general meeting of the Commissioners and of every meeting of any committee or sub-committee of the Commissioners shall be signed by the chairman of such meeting or in his absence by the chairman of the meeting of the Commissioners or of the committee or sub-committee as the case may be at which such minutes may be brought up for confirmation.

General purposes committee of Commissioners.

21.—(1) Whenever any person shall be elected a Commissioner after the general meeting of the Commissioners in any year it shall be lawful for the general purposes committee of the Commissioners if they think fit to appoint such person to be a member of that committee until the next ensuing general meeting of the Commissioners and the person so appointed shall thereupon become and be a member of the said committee

for all purposes until that date and shall then cease to hold office but shall be eligible for re-appointment by the general meeting.

(2) The general purposes committee of the Commissioners may if they think fit from time to time appoint a sub-committee or sub-committees consisting of three or more members of that committee and may confer on a sub-committee so appointed any powers possessed by the general purposes committee and may regulate the proceedings of a sub-committee and may revoke the appointment thereof.

Application of funds.

22. The Commissioners may apply for the purposes of this Act any moneys coming to their hands under the Severn Navigation Acts 1842 to 1890 but as regards money arising from the sale of land or other money in the nature of capital only to purposes to which capital is properly applicable.

Contribution by county councils &c. towards costs of Act.

23. The county council of the county of Worcester and the county council of the county of Gloucester and the corporation of any city or borough interested in the navigation of the river or any one or more of them may contribute towards the costs charges and expenses preliminary to and of and incidental to the preparing for obtaining and passing of this Act such sum as may be agreed upon between such council or corporation and the Commissioners.

For protection of Staffordshire and Worcestershire Canal Company.

24. For the protection of the Staffordshire and Worcestershire Canal Company (in this section called "the canal company") the following provisions shall unless otherwise agreed in writing between the Commissioners and the canal company have effect (that is to say):—

(1) The powers conferred upon the Commissioners by the sections of this Act of which the marginal notes are "Commissioners may erect landing places" and "Mooring chains may be fixed and maintained" shall not be exercised so as in any manner to injuriously affect or interfere with the free use of and convenient access to or egress from any of the docks wharves piers quay-walls landing places or other works or conveniences situate at Stourport and belonging or reputed to belong to or occupied by the canal company and if any work erected fixed or placed by the Commissioners under the provisions of the said sections causes any such injurious affection or interference the Commissioners shall remove such

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work and in case the Commissioners shall make default in so doing after reasonable notice from the canal company the canal company may remove such work and may recover the reasonable expense incurred by them in so doing from the Commissioners in any court of competent jurisdiction:

(2) If any difference arises between the Commissioners and the canal company under the preceding subsection of this section such difference shall be determined by the arbitration of an engineer or other fit person to be appointed by the Board of Trade on the application of either the Commissioners or the canal company and in other respects the provisions of the Arbitration Act 1889 shall apply to any such arbitration:

(3) The provisions of the section of this Act of which the marginal note is "Wharves &c. to be repaired" shall not extend or apply to any lands property works or conveniences belonging or reputed to belong to or in the occupation of the canal company:

(4) Nothing in the section of this Act of which the marginal note is "Byelaws" shall authorise the Commissioners to make any byelaw for regulating the use of any land property works or conveniences belonging or reputed to belong to or in the occupation of the canal company or the conduct of persons using the same or the anchoring or mooring of vessels at or alongside the same.

Saving for corporations of Gloucester and Worcester.

25. Nothing in this Act contained shall extend to suspend lessen take away prejudice or extinguish the payment of any river dues or other dues or tolls or any right privilege immunity jurisdiction or authority granted or belonging to or enjoyed or legally claimed or received by immemorial custom or usage or otherwise by the mayor aldermen and citizens of the city of Gloucester or the mayor aldermen and citizens of the city of Worcester or any officer belonging to either of those corporations respectively.

Saving for corporation of Cheltenham.

26. Nothing in this Act contained shall take away lessen or interfere with the exercise of any rights powers or authorities vested in and transferred to the mayor aldermen and burgesses of the borough of Cheltenham by the Cheltenham Corporation Water Act 1878 which shall remain in full force as if this Act had not been passed.

Saving for Postmaster-General.

27. Nothing in this Act shall affect any of the rights or powers of the Postmaster-General under the Telegraph Acts 1863 to 1913.

Works below high-water mark to be subject to approval of Board of Trade.

28. Subject to the provisions of this Act any of the works authorised by this Act to be constructed on over or under tidal lands below high-water mark of ordinary spring tides shall be constructed only in accordance with such plans and sections and subject to such restrictions and regulations as previous to such works being commenced have been approved by the Board of Trade in writing under the hand of one of the secretaries or assistant secretaries of the Board of Trade.

Any alteration or extension of any such works shall be subject to the like approval.

If any such work be commenced or completed contrary to the provisions of this section the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the cost of the Commissioners and the amount of such cost shall be a debt due from the Commissioners to the Crown and shall be recoverable as a Crown debt or summarily.

Crown rights.

29. Nothing in this Act affects prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained authorises 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 land hereditaments subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Woods or of the Board of Trade respectively without the consent in writing of the Commissioners of Woods or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose which consent the said Commissioners and Board are hereby authorised to give.

Costs of Act.

30. The costs charges and expenses preliminary to and of and incidental to the preparing for obtaining and passing of this Act shall be paid by the Commissioners out of any moneys coming to their hand under the Severn Navigation Acts 1842 to 1890 or this Act.

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