

**CHAPTER ciii.**

An Act to make further provision with respect to the tolls and charges applicable to the Severn Navigation and for other purposes.

A.D. 1935.

[2nd August 1935.]

**W**HEREAS by the Severn Navigation Acts 1842 to 1920 the Severn Commissioners (hereinafter 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 (hereinafter called "the Severn Navigation") and by the same Acts powers have been conferred on the Commissioners for (amongst other things) the levying of tolls on goods wares and merchandise carried on and passenger vessels and pleasure boats navigating the Severn Navigation and for the regulation of traffic thereon and for the prevention of obstruction to the navigation thereof :

And whereas the maximum tolls and charges which the Commissioners shall be entitled to charge and make in respect of merchandise traffic on the Severn Navigation are prescribed by the Canal Tolls and Charges No. 6 (River Lee &c.) Order 1894 confirmed by the Canal Tolls and Charges No. 6 (River Lee &c.) Order Confirmation Act 1894 :

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And whereas the Commissioners are also empowered—

- (1) By the Severn Navigation Act 1890 to levy and charge for the use of the dock or basin authorised by that Act and known as “ Diglis Dock ” tolls not exceeding the amounts mentioned in section 11 thereof; and
- (2) By the Severn Navigation Act 1920 to demand take and recover in respect of certain passenger vessels (including pleasure boats steam launches and house boats) tolls not exceeding the tolls authorised by sections 4 and 5 of that Act and the schedule to that Act :

And whereas by the Act of 1890 the Sharpness New Docks and Gloucester and Birmingham Navigation Company (hereinafter called “ the Sharpness Company ”) were required to alter enlarge and deepen the lock or locks forming the connection between their canal basin or dock at Gloucester and the Severn Navigation to the extent mentioned in section 12 of that Act and the Commissioners were required to advance to the Sharpness Company by way of loan all moneys which might be necessary for the purpose of such enlargement alteration and deepening not exceeding in the whole three thousand five hundred pounds and it was provided that in case the Commissioners should advance such moneys the Sharpness Company should levy and take an additional toll of one halfpenny per ton on all goods wares and merchandise passing through the said lock or locks in any vessel whose carrying capacity shall exceed one hundred and sixty tons and that such toll of one halfpenny per ton should from time to time be paid by the Sharpness Company to the Commissioners and be applied by the Commissioners in payment of the interest on the moneys so advanced and in repayment of the principal thereof :

And whereas the enlargement alteration and deepening of the said lock or locks were carried out by the Sharpness Company and the Commissioners advanced the moneys necessary for the purpose :

And whereas by directions given by the Minister of Transport in pursuance of section 3 of the Ministry of Transport Act 1919 and dated the first day of September nineteen hundred and twenty the Commissioners were

directed during the period mentioned in that section to charge in respect of their undertaking the tolls dues and charges in operation at the thirty-first day of July nineteen hundred and twenty with an addition thereto (except in the case of the tolls authorised by sections 4 and 5 of the Severn Navigation Act 1920 and the schedule to that Act) of one hundred and fifty per centum and by other directions given by the said Minister in pursuance of the same section 3 to the Sharpness Company that company were directed during the same period to charge in respect of the inland navigation portion of their undertaking (including the said lock or locks at Gloucester) the tolls dues and charges in operation on the said thirty-first day of July with an addition thereto of one hundred and fifty per centum :

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And whereas by the Canals (Continuance of Charging Powers) Acts 1922 and 1924 and certain Expiring Laws Continuance Acts and finally by the Expiring Laws Continuance Act 1934 the increased tolls dues and charges authorised by both of the said directions have been from time to time continued in force and will expire on the thirty-first day of December nineteen hundred and thirty-five unless further continued by Parliament :

And whereas it is expedient that provision be made as in this Act contained with reference to the tolls and charges to be charged and made by the Commissioners and the additional toll to be levied by the Sharpness Company under the Act of 1890 :

And whereas under powers conferred by the Acts relating to the Commissioners passed before the Act of 1890 the Commissioners borrowed money on mortgage and there were owing by the Commissioners on mortgages granted or agreed to be granted under those Acts the following sums on account of principal and arrears of interest up to the thirtieth day of June nineteen hundred and thirty-four :—

—	Principal.			Arrears of interest.		
	£	s.	d.	£	s.	d.
To the Staffordshire and Worcester- shire Canal Company - - -	65,643	2	0	64,095	16	0
To the Gloucester Corporation -	500	0	0	154	10	5
To the Worcester Corporation -	500	0	0	173	3	0

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And whereas the mortgages granted to the said canal company were granted by the Commissioners in pursuance of the powers of borrowing conferred on them by the Severn Navigation Act 1842 and the Severn Navigation Act 1844 and the mortgages of five hundred pounds each granted or agreed to be granted to the Gloucester Corporation and the Worcester Corporation respectively were granted or agreed to be granted by the Commissioners in pursuance of powers of reborrowing conferred on the Commissioners by those Acts :

And whereas further powers of borrowing money on mortgage were conferred on the Commissioners by the Act of 1890 and in exercise of those powers the Commissioners have granted mortgages on which there is now owing the aggregate sum of thirty thousand pounds on account of principal and large sums as arrears of interest :

And whereas by sections 35 and 36 of the Act of 1890 it was provided (inter alia) that—

- (a) The annual income to be received by the Commissioners from tolls to the amount of eight thousand two hundred and forty-five pounds sixteen shillings and twopence if the tolls should amount to that sum and the whole of the annual income from tolls if they should amount to a less sum should be applied first in payment of the expenses of the Commissioners as mentioned in section 35 secondly in payment of interest accruing subsequently to the thirtieth day of June eighteen hundred and eighty-nine on the principal moneys for the time being remaining due on the mortgages granted by the Commissioners under their former Acts and thirdly in repaying those principal moneys; and
- (b) During such time as any money should remain due on any mortgage granted under the Act of 1890 all tolls received by the Commissioners in every twelve months ending on the thirtieth day of June and being in excess of the said sum of eight thousand two hundred and forty-five pounds sixteen shillings and twopence should be applied first in payment of certain expenses of the Commissioners mentioned in section 36 secondly in payment of interest on the sum

raised on mortgage under that Act and for the time being remaining owing and thirdly towards repaying the principal of that sum :

And whereas it is expedient that sections 35 and 36 of the Act of 1890 be amended as by this Act provided :

And whereas it is expedient that the other provisions of this Act be enacted :

And whereas the purposes 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 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 :—

1. This Act may be cited as the Severn Navigation Act 1935 and the Severn Navigation Acts 1842 to 1920 and this Act may be cited together as the Severn Navigation Acts 1842 to 1935.

Short and  
collective  
titles.

2. In this Act unless the context otherwise requires—  
“ The Commissioners ” means the Severn Commissioners ;

Interpre-  
tation.

“ The Charges Order ” means the Canal Tolls and Charges No. 6 (River Lee &c.) Order 1894 ;

“ The Act of 1890 ” means the Severn Navigation Act 1890 ;

“ Authorised tolls ” means the tolls and charges which the Commissioners are for the time being authorised to levy in pursuance of this Act or any existing Act or Order relating to the Commissioners and includes the additional toll authorised to be levied by section 16 of the Act of 1890 as amended by this Act ;

“ The Minister ” means the Minister of Transport ;

“ The appointed day ” means the first day of January nineteen hundred and thirty-six.

3.—(1) The provisions of this section shall come into force on the appointed day and shall have effect thereafter subject to the provisions of section 5 (Revision of tolls and charges) of this Act.

Tolls and  
charges.

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(2) The Charges Order so far as it relates to the Severn Navigation shall (subject to the provisions of section 5 (Revision of tolls and charges) of this Act) be read and have effect as if—

- (a) the maximum tolls and wharfage charges specified in that portion of Part I of Table A in the schedule to the Charges Order which relates to the Severn Navigation (including the tolls mentioned in the proviso to that portion of Part I of the said table) were severally increased by an amount equal to eighty per centum of the respective amounts thereof as so specified; and
- (b) the sum of four shillings and sixpence were substituted for the sum of two shillings and sixpence in each place where the sum of two shillings and sixpence is mentioned in special section (i) (Minimum toll per boat and toll for empty boat) of so much of the schedule to the Charges Order as relates to the Severn Navigation.

(3) Section 11 (Tolls for use of dock &c.) and section 16 (Additional toll for such locks) of the Act of 1890 shall be read and have effect as if the tolls specified in those sections were severally increased by an amount equal to eighty per centum of the respective amounts thereof as so specified.

(4) The directions of the Minister given in pursuance of section 3 of the Ministry of Transport Act 1919 with respect to the Severn Navigation undertaking dated the first day of September nineteen hundred and twenty and the directions of the Minister given in pursuance of the said section 3 with respect to the inland navigation portion of the Sharpness New Docks and Gloucester and Birmingham Navigation undertaking so far as the last mentioned directions relate to section 16 of the Act of 1890 shall cease to have effect.

Fraction of  
a penny.

4. If any toll or charge per ton which is charged or made in pursuance of this Act includes a fraction of one penny the fraction if less than one halfpenny shall not be charged or made and if equal to or more than one halfpenny shall be charged or made as one penny :

Provided that in the application of this section to a toll per ton per mile the toll per ton which is charged in

pursuance of this Act shall mean the toll per ton so charged for the entire distance conveyed but in no case shall the toll per ton for the entire distance conveyed be less than one penny.

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5.—(1) If at any time after the expiration of one year from the appointed day it is represented by application in writing to the Minister—

Revision of  
tolls and  
charges.

(a) by any chamber of commerce or shipping or any representative body of traders or any person who in the opinion of the Minister is a proper person for the purpose; or

(b) by the Commissioners;

that in the circumstances then existing the authorised tolls or any of them should be revised the Minister (if he thinks fit) may make an order revising the authorised tolls referred to in the application or any of them and may fix the date as from which the order shall take effect and thenceforth the order shall remain in force until it expires or is revoked or modified by a further order of the Minister made in pursuance of this section.

(2) An application made to the Minister under this section shall be accompanied by such information and particulars as the Minister may consider relevant certified in such manner as he may require.

(3) Where upon an application for revision of the authorised tolls or any of them an order has been made or the Minister has decided not to make an order no further application for a revision of the tolls or toll to which the application related shall be made within twelve months from the date of such order or decision as the case may be.

(4) Before making an order under subsection (1) of this section the Minister shall cause an inquiry to be held in reference thereto and subsections (2) to (5) of section 290 of the Local Government Act 1933 shall apply to such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section and the Commissioners were a local authority:

Provided that the person appointed to hold the inquiry shall be the rates advisory committee constituted under the Ministry of Transport Act 1919 or any sub-committee thereof to which the said advisory committee

A.D. 1935. — may under section 2 of the Harbours Docks and Piers (Temporary Increase of Charges) Act 1920 have delegated their powers or if the said advisory committee cease to exist some persons with similar qualifications to be appointed for the purpose by the Minister.

Recovery of  
tolls and  
charges.

6.—(1) If any toll or charge which the Commissioners are authorised by the Severn Navigation Acts 1842 to 1935 or any order made under this Act to charge or make is not paid on demand to the officer of the Commissioners authorised by them to demand and receive the same then and in any such case the Commissioners may recover such toll or charge from the person liable to pay the same in any court of competent jurisdiction or summarily as a civil debt.

(2) Section 7 (Recovery of tolls and charges) of the Severn Navigation Act 1920 is hereby repealed.

Amend-  
ment of  
sections 35  
and 36 of  
Act of 1890.

7.—(1) On and after the appointed day section 35 (Application of income by the Commissioners) and section 36 (Application of tolls in excess of £8,245 16s. 2d. per annum) of the Act of 1890 shall in every year have effect as if—

The sum of eight thousand two hundred and forty-five pounds sixteen shillings and twopence mentioned in those sections were increased by the smaller of the following amounts—

(i) the amount by which the total amount of the expenses charged by the Commissioners to income account during the year (exclusive of (a) interest on mortgages and (b) sums charged for income tax and recoverable by way of deduction from interest on mortgages) shall exceed the sum of five thousand pounds; or

(ii) the amount which is equal to the prescribed per centum of the said sum of eight thousand two hundred and forty-five pounds sixteen shillings and twopence.

(2) In this section—

“the prescribed per centum” means eighty per centum or such other per centum as may from time to time be substituted for eighty per centum in paragraph (a) of subsection (2) of

section 3 (Tolls and charges) of this Act by an order made by the Minister under section 5 (Revision of tolls and charges) of this Act; and “year” means a period of twelve months ending on the thirtieth day of June.

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8. The Commissioners shall in every year within three months after the annual meeting of the Commissioners or such later period as the Minister may allow send to the Minister a copy of the abstract of the accounts of their undertaking.

Accounts to  
be sent to  
Minister.

9. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto and incurred by the Commissioners and by the Staffordshire and Worcestershire Canal Company respectively shall be paid (as the case may be) by the Commissioners out of any moneys coming to their hands under the Severn Navigation Acts 1842 to 1935 or by the said company.

Costs of  
Act.

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