

From: [REDACTED]
To: [Immingham Eastern Ro-Ro Terminal](#)
Subject: TR030007 - Immingham Eastern Ro-Ro Terminal - section 51 Advice - Local Acts
Date: 15 March 2023 16:27:26
Attachments: [Humber Conservancy Act 1899.pdf](#)
[Harbours Docks and Piers Clauses Act 1847 c 27.pdf](#)
[River Humber Conservancy Act 1852.pdf](#)
[Humber Conservancy Act 1905 c clxxix.pdf](#)

Lily,

This is my second email following your section 51 Advice and it cover two separate, but related points.

First, you reference paragraphs 5.16 to 5.18 in our DCO EM in the context of the Harbours, Docks and Piers Clauses Act 1847. A copy of this Act, as requested, is attached.

Second, in the following paragraph of your Advice you reference paragraphs 10.15 and 10.16 of the DCOs EM where I explain why parts of certain local Acts will be modified by the DCO. You have asked for “relevant extracts” of the 1852, 1899 and 1905 Acts, but as all three Acts are relatively short, I suspect it would be more helpful if I sent you the complete Acts for the library – and these too are attached.

Best regards,

Brian

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ANNO DECIMO QUINTO & DECIMO SEXTO

VICTORIÆ REGINÆ.

Cap. cxxx.

An Act for the Conservancy of the River *Humber*,
and for amending some of the Provisions of an
Act relating to the *Kingston-upon-Hull Docks*.

[30th June 1852.]

WHEREAS it is expedient to make Provision for the more effectual Conservancy of the River *Humber* from the Confluence into the same of the Rivers *Ouse* and *Trent* to the Sea: And whereas the Corporations and Company herein-after named are willing to contribute the annual Sums herein-after mentioned for the Purpose: And whereas, by Section Ten of "The *Kingston-upon-Hull Dock Act*, 1849," it is enacted that from and after the Expiration of Four Years from the passing of that Act, if any Mud or Soil, whether dredged or lifted from the *Humber Docks* or Old Harbour, or otherwise arising, should be thrown by the Dock Company at *Kingston-upon-Hull*, or any other Person or Persons whomsoever, into the River *Humber*, in each and every Case the Company and every Person so throwing any such Mud or Soil into the River *Humber* should forfeit and pay a Sum not exceeding the Sum of Ten Pounds over and besides all Expenses which may be incurred by or under the Direction of the Lord High Admiral, or the Commissioners for executing the Office of Lord High Admiral, in

[Local.] 23 A removing

The River Humber Conservancy Act, 1852.

removing to a proper Place any such Mud or Soil which may have been thrown into the said River *Humber*, which Expenses may be recovered as a Penalty or as a Debt due to Her Majesty, with Costs of Suit: And whereas it is provided by the said Act, that if any General Act should pass relating to the Conservancy and Regulation of tidal Rivers, and the casting of Mud therein, then the said Company should at the Expiration of the said Four Years, or upon the Commencement of such General Act if passed after the Expiration of the said Four Years, be subject to the Provisions of such General Act, and the Provisions in that Act contained with reference thereto should cease and determine: And whereas it is expedient that Section Ten of the herein-before recited Act should be repealed, and that the Conservator herein-after authorized to be appointed should investigate and examine whether the Deposit of Mud by the said Company is injurious to the Navigation of the River: And whereas the Purposes aforesaid cannot be affected 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,)

Limits of Act. I. That the Limits of this Act shall comprise the River *Humber* and the Estuary thereof, from the Confluence into the same of the Rivers *Ouse* and *Trent* to the Sea.

Short Title. II. That in citing this Act in other Acts of Parliament, and in legal Instruments, it shall be sufficient to use the Expression "The River *Humber* Conservancy Act, 1852."

Interpretation of certain Terms. III. That in the Construction of this Act the Word "River" shall include the River *Humber* and the Estuary thereof, and the Expression "Lords of the Admiralty" shall mean the Lord High Admiral of the United Kingdom, or the Commissioners for executing the Office of Lord High Admiral.

Commissioners. IV. That the following Persons shall be Commissioners; (that is to say,)

The Mayor for the Time being of the Borough of *Kingston-upon-Hull*:

The acting Warden for the Time being and One of the Elder Brethren for the Time being of the Guild or Brotherhood of Masters and Pilots Seamen of the *Trinity House in Kingston-upon-Hull*:

The Chairman and Deputy Chairman of the Dock Company at *Kingston-upon-Hull*:

Four Persons to be appointed by the Lords of the Admiralty:

Such

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Such Person or Persons as may from Time to Time be appointed to represent any Corporation or Company, or the Undertakers of the Navigation of the Rivers *Aire* and *Calder*, or as may be appointed in the event of the Contribution by the *Manchester, Sheffield, and Lincolnshire* Railway Company, in manner herein-after provided :

And such Commissioners may execute the Powers intrusted to them by this Act, and shall be intituled "The River *Humber* Conservancy Commissioners."

V. That the Lords of the Admiralty may, if they think fit, appoint Four Persons to be Commissioners, and from Time to Time remove such Persons or any of them, and appoint other or others in their Stead; and every such Appointment shall be signified by Writing under the Hand of the Secretary of the Admiralty for the Time being: Provided always, that the Powers of the Commissioners shall not be dependent upon such Appointments being made.

Power to Admiralty to appoint Four Commissioners.

VI. That the Guild or Brotherhood of Masters and Pilots Seamen of the *Trinity House in Kingston-upon-Hull* shall from Time to Time, by Writing under their Common Seal, to be delivered to the Clerk to the Commissioners, appoint such One as the Guild from Time to Time think fit of the Elder Brethren of the Guild to be One of the Commissioners, and may from Time to Time, at their Pleasure, by Writing under their Common Seal, to be delivered to that Clerk, revoke any such Appointment.

Appointment of Commissioner by Trinity House in Kingston-upon-Hull.

VII. That the Commissioners shall hold their First Meeting at the Guildhall in the Town of *Kingston-upon-Hull* upon the Second *Thursday* in the Month of *September* after the passing of this Act, at Noon, and shall hold an Annual Meeting at the Guildhall in *Kingston-upon-Hull* on the First *Thursday* in *August* in every Year; and the Commissioners may adjourn from Time to Time, and from Place to Place within Ten Miles of some Part of the River, as they shall think proper.

Meetings.

VIII. That the Quorum of Commissioners shall be Five.

Quorum.

IX. That at every Meeting of the Commissioners they shall, by the Majority of the Votes of the Commissioners present, elect One of the Commissioners present to be the Chairman at such Meeting; and at all Meetings the Questions there considered shall be decided by the Votes of the Majority present, and if there be an equal Division of Votes upon any Question the Commissioner acting as Chairman at such Meeting shall, in addition to his own Vote, have a Second or Casting Vote: Provided always, that if at any Meeting there be an Equality of Votes on the Election of the Chairman, it shall be decided by Lot which of the Commissioners having an equal Number of Votes shall be the Chairman.

Proceedings at Meetings

X. That

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Special
Meetings.

X. That any Two or more of the Commissioners may from Time to Time call Special Meetings of the Commissioners by Circular addressed to each of the Commissioners, and sent by Post to his usual Place of Abode or Place of Business at least Seven Days before the Day appointed for such Meeting, and every such Notice shall specify the Time and Place of Meeting, and the Object thereof, and no Business shall be transacted thereat except such as is stated in such Notice.

Part of
10 & 11 Vict.
c. 16. incor-
porated with
this Act.

XI. That the Clauses contained in the "Commissioners Clauses Act, 1847," with respect to the Liabilities of the Commissioners, and to legal Proceedings by or against the Commissioners, shall be incorporated with this Act.

Power to
Admiralty to
appoint Con-
servator ;

XII. That it shall be lawful for the Lords of the Admiralty to appoint a Conservator for the Purposes of this Act, and from Time to Time to suspend or remove such Conservator as they may see fit, and to appoint another in his Room ; and the Conservator to be so appointed as aforesaid shall from Time to Time survey and inspect the said River within the Limits aforesaid, and shall annually (or oftener, if required by the said Lords of the Admiralty or the said Commissioners,) report to the said Commissioners and to the Lords of the Admiralty upon the State of the Navigation thereof, specifying all the Impediments, Encroachments, Nuisances, and Annoyances in, upon, or affecting the same, and when and by whom or from what Cause such Impediments, Encroachments, Nuisances, and Annoyances have been created or have arisen ; and such Conservator shall, if required by the Lords of the Admiralty, be resident within the Town of *Kingston-upon-Hull*, or within Ten Miles thereof.

and to fill up
Vacancies.

XIII. That in the event of the Death or Resignation of the Conservator it shall be lawful for the Lords of the Admiralty to appoint another in his Room.

Commission-
ers may ap-
point Persons
to assist Con-
servator, and
also a Clerk.

XIV. That it shall be lawful for the said Commissioners from Time to Time, if they shall see Occasion, and for such Length of Time as they shall think fit, to employ or authorize the Employment of any other Persons to assist the said Conservator in the Execution of the aforesaid Duties of his Office, and also, if they think fit, to appoint a Clerk to keep the Minute Books and Records of the Proceedings of the said Commissioners.

Contri-
butions for
maintaining
Conservancy.

XV. And whereas the said Corporations and the said Dock Company are willing to provide such a Fund as herein-after appearing for or towards Payment of the Salary and Expenses of the Conservator and other Persons in the Performance of the aforesaid Duties, and in the Proportions following ; (that is to say,)

The Mayor, Aldermen, and Burgesses of the Borough of *Kingston-upon-Hull*, the yearly Sum of One hundred Pounds :

The

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The Guild or Brotherhood of Masters and Pilots Seamen of the *Trinity House in Kingston-upon-Hull*, the yearly Sum of Two hundred Pounds :

The Dock Company at *Kingston-upon-Hull*, the yearly Sum of Three hundred Pounds :

Be it therefore enacted, That the said Mayor, Aldermen, and Burgesses of the Borough of *Kingston-upon-Hull* out of their Borough Fund, and the Guild or Brotherhood of Masters and Pilots Seamen of the *Trinity House in Kingston-upon-Hull* out of their Buoyage and Beaconage Fund, and the said Company out of their annual Revenue, shall pay to the Commissioners appointed by this Act yearly and every Year their respective Contributions herein-before specified, and the First Payment shall be the Contribution for One Half Year, and shall be made on the First Day of *January* next after the passing of this Act, and the subsequent Payments shall be made half-yearly on the First Day of *July* and the First Day of *January* in every Year, and such Contributions shall be carried to a Fund to be called the Conservancy Fund; and if the aggregate Amount of such Contributions shall in any One Year be more than sufficient for the Purposes of this Act, the Surplus thereof may be carried on to the succeeding Year; and it shall be lawful for the Commissioners to allow such Surplus to accumulate, if they think fit, and to invest the same in Government Securities in the Name of Two or more of the Commissioners, and from Time to Time to expend the same for the Purposes of this Act, or for any Purpose connected with the Improvement of the River: Provided always, that the Corporations and Company before mentioned, and other contributing Parties herein-after mentioned, shall not in any event be liable in any One Year for any further Sum than the respective Amounts in this Act specified as to be contributed in that Year by them respectively.

XVI. That, subject to the Provisions herein-after contained with respect to the Part of the River adjacent to or in front of the Pier at *Kingston-upon-Hull* known as the Corporation Pier, the Commissioners may from Time to Time apply or contribute any such surplus Money under their Control in or towards the Removal of any now existing and future Banks, Shoals, and other Impediments and Obstructions to the free Navigation of the River and the free Flow of the Waters therein, and whether such Impediments or Obstructions arise from ordinary, extraordinary, natural, or accidental Causes, and the Commissioners may remove and authorize the Removal of any such Impediments or Obstructions: Provided always, that no such Removal of Shoals or other Obstructions shall be made without the Approval of the Lords of the Admiralty, nor so as to prejudice the Land or Property of any Person or Persons.

Contribution may be applied for general Purposes.

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Commissioners to fix Salary of the Conservator, and provide Means for inspecting the River.

XVII. That the Commissioners shall, subject to the Approval of the Lords of the Admiralty, fix the Salary of the Conservator, and pay the same to him out of the Conservancy Fund from Time to Time by equal quarterly Payments, and the Commissioners shall, out of such Fund, provide proper Means of inspecting or surveying the River, together with such Assistant or Assistants as the Commissioners may think necessary, or as the Lords of the Admiralty may require: Provided always, that the Salary of the Conservator shall not be less than Three hundred Pounds *per Annum*, unless with the Consent of the Lords of the Admiralty; and the Salary and Expenses of such Conservator, and his Assistants and their Expenses, and the Expenses of the Commissioners with reference to the Management of the Conservancy, shall not exceed Six hundred Pounds *per Annum*.

Appointment of Commissioners by other Parties in the event of their becoming Contributors.

XVIII. That in case at any Time or Times hereafter the River *Dun* Navigation Company, or any Corporation or Company interested in the Conservancy, Trade, or Commerce of the River *Humber*, or the Undertakers of the Navigation of the Rivers *Aire* and *Calder* acting by their Board of Directors, shall be desirous of being represented at Meetings of the Commissioners appointed by this Act, and shall be willing to become and shall become Contributors to the Extent of One hundred Pounds *per Annum* towards the Conservancy Fund, it shall be lawful for the Mayor for the Time being in case such contributing Party be the Corporation of a Municipal Borough, and the Chairman for the Time being in case such contributing Party be an incorporated Company, and for any Member of the said Board of Directors who may from Time to Time be appointed by the said Board for the Time being, in case such contributing Party be the said Undertakers, to act respectively as Commissioners in the Execution of this Act in addition to the other Commissioners by this Act appointed or authorized to be appointed, so long as such Contributions respectively shall be paid; and the said Board of Directors may from Time to Time, at their Pleasure, by Writing under the Hands of Three Members of such Board for the Time being, revoke any such Appointment of a Commissioner representing the said Undertakers; and the last-mentioned Contributions shall be payable respectively during the Continuance of such Appointment by equal half-yearly Payments on the Days on that Behalf aforesaid, commencing respectively with the Day of Payment for the Half Year in which such Commissioner shall be appointed; provided always, that no such Appointment shall be made or endure for a shorter Period than Three Years: Provided also, that the Board of Directors of any incorporated Company may, in lieu of their Chairman acting as such Commissioner under this Act, appoint One of the Members of their Board to act as such Commissioner, and may from Time to Time remove such Commissioner, and appoint another Member of their

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their Board in his Stead, and every such Appointment shall be notified to the Clerk of the Commissioners or to any One of such Commissioners.

XIX. That in case the *Manchester, Sheffield, and Lincolnshire* Railway Company shall at any Time hereafter agree to contribute and pay the yearly Sum of Three hundred Pounds towards the Conservancy Fund, the following Persons shall be Commissioners for executing this Act in addition to the Persons herein appointed or authorized to be appointed Commissioners; that is to say, the Mayor of the Borough of *Grimsby* for the Time being, the Chairman and Deputy Chairman of the *Manchester, Sheffield, and Lincolnshire* Railway Company for the Time being, or Two Directors to be nominated by the Board of Directors of the said Company, and Two other Persons to be nominated by the said Board of Directors not being such Directors, and such Persons shall continue Commissioners so long as such Sum shall be duly paid: Provided always, that the Consent of the *Manchester, Sheffield, and Lincolnshire* Railway Company to such Contribution shall be obtained at an Extraordinary Meeting of such Company, and such Contribution shall not be made and endure for a shorter Period than Three Years.

Appointment of Commissioners by the *Manchester, Sheffield, and Lincolnshire* Railway Company, in case of their becoming Contributors.

XX. That in case and so long as such Contribution shall be paid by the *Manchester, Sheffield, and Lincolnshire* Railway Company, the Commissioners shall, after paying any Sum of Money for the Purposes of executing this Act, not exceeding the Sum of Six hundred Pounds a Year, first apply the Surplus of the Conservancy Fund, or such Part thereof as may be necessary, in and towards maintaining such a Depth of Water at and in the Front of the said Corporation Pier at *Kingston-upon-Hull* as will allow all Steam Ferry Boats using the said Pier to have Access to such Pier at Low-water Spring Tides.

Depth of Water to be maintained at the Corporation Pier in case of such Contribution.

XXI. That in every Case in which any Bank, Shoal, or other Impediment or Obstruction is occasioned by the Act or Default of any Party, or it is the Duty of any Party to remove the same, or to bear the Expense of the Removal thereof, and any such Party fail to remove the same to the Satisfaction of the Commissioners within a reasonable Time after being by them required so to do, and the Commissioners thereupon remove the same or authorize the Removal thereof, which the Commissioners are hereby authorized to do, then all the Expenses of and incident to the Removal thereof by or under the Authority of the Commissioners, and all Damages occasioned by such Failure of such Party, shall be borne and paid by such Party, and if not paid to the Commissioners on Demand may be recovered by them, with full Costs of Suit, by Action, Plaint, or other Proceeding in any Court of competent Jurisdiction.

Commissioners may remove Obstructions.

XXII. That,

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Powers of Commissioners.

XXII. That, subject to the Provisions of this Act, the Commissioners, in addition to the other Powers conferred upon them by this Act, may exercise all such Powers and Authorities as may be by virtue of any General Law relating to navigable Rivers for the Time being in force for the Maintenance and Improvement of the Navigations within the Limits of this Act, and for the Abatement and Removal of Nuisances and Obstructions therein.

For ensuring the Removal of sunken Vessels within a reasonable Time.

XXIII. That when and so often as any Vessel shall be sunk or stranded within the Limits of this Act, if the Owner of such Vessel, or the Master or other Person having or who at the Time of such sinking or stranding had the Charge or Command of such Vessel, shall refuse or neglect to weigh or raise the same for the Space of One Month then next following, any Person who shall be appointed by the Commissioners for the Purpose may cause any such Vessel to be weighed and raised, or, if the same cannot be effected, to be blown up with Gunpowder, or otherwise removed, and may also cause the same, and the Furniture, Tackle, and Apparel thereof, or any Part thereof respectively which may be saved, and all or any Part of any Goods or Merchandises or Effects which shall be found on board the same or be otherwise saved, to be sold by Public Auction or otherwise; and the Proceeds of such Sale shall be applied in paying the Charges and Expenses of weighing and raising or blowing up or otherwise removing such Vessel and clearing the River, where the same shall happen, and also the Charges and Expenses of such Sale, rendering the Overplus (if any) to the Owner or other Person who by Law shall be entitled to the same.

Expenses of raising stranded Vessels, &c., how recovered.

XXIV. That if, in case of any Sale as aforesaid, the Proceeds thereof be insufficient to defray the Charges and Expenses authorized to be defrayed thereby, or if from any Cause no Sale can be had, such of the Charges and Expenses authorized to be defrayed by Sale as aforesaid, but which have not been or cannot be so defrayed thereby, may be recovered, in the Name of the Commissioners, in a summary Manner from the Owner, Master, or other Person having or who at the Time of the sinking or stranding of the Vessel had the Charge or Command of the same: Provided always, that until the Commissioners appoint any such Person to weigh and raise such Vessel, the Owner, Master, or Person having or who had the Charge thereof may proceed to weigh and raise the same.

Penalties for improper Deposit of hard Materials in the River.

XXV. That every Person who (without the Consent of the Lords of the Admiralty) shall cast, throw, empty, unload, or deposit any Ballast, Wreck, Stone, Slate, Rock, Clay, Mud, or other Materials of a similar Description (except Mud or Silt deposited from the Waters of the River in any Dock, Basin, Cut, or Work), within the Limits of
this

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this Act, or in any Place or Situation on shore where the same shall be liable to be washed into the River, either by ordinary or high Tides, or by Storms or Land Floods, shall be liable for every such Offence to a Penalty not exceeding Ten Pounds over and above all Expenses which may be incurred in removing the same to a proper Place; and the Expenses incurred in removing any such Ballast, Wreck, Stone, Slate, Rock, or Materials shall be recoverable from the Offender in a summary Manner: Provided always, that nothing herein-before contained shall be construed to prevent any Person from adopting any Measures which but for the Provisions of this Act he would have been lawfully entitled to adopt for recovering any Land which shall at any Time have been lost to him, or severed from the Land belonging to him, by reason of the overflowing or washing of any tidal Waters or navigable River, within the Limits of this Act, or from protecting his Land from future Loss or Damage by the like Cause; nor be construed to extend to the casting, throwing, emptying, unloading, or depositing any Stones, Rocks, Bricks, Lime, or other Materials used or to be used in or towards the building, repairing, or keeping in repair any Dock, Quay, Pier, Wharf, Weir, Bridge, or other Building, or the Banks or Sides of the River within the Limits of this Act.

XXVI. And with respect to Mud or Silt deposited from the Waters of the River in any Dock, Basin, Cut, or Work, be it enacted, That no Person shall cast into the River any Mud or Silt dredged or lifted from any Dock, Basin, Cut, or other Work, except in such Situation and at such Time of Tide as the Lords of the Admiralty upon the Report of the Conservator shall direct, unless by this Act or any Act of Parliament relating to such Dock, Basin, Cut, or Work any Limits or Place or Time of Tide are prescribed, and in such Case such Mud or Silt shall be cast into the River in accordance with the Provisions and Restrictions of such Act; and if any Person throw any such Mud or Silt into the River contrary to the Order of the Lords of the Admiralty, every such Person shall be liable to a Penalty of Ten Pounds for every such Offence: Provided always, that if the Lords of the Admiralty shall upon the Report of the Conservator be satisfied that the casting Mud or Silt dredged or lifted from any Dock, Basin, Cut, or other Work is injurious to the Navigation of the said River, it shall be lawful for the Lords of the Admiralty, after giving previous Notice as herein-after mentioned to the Company, Corporation, or Persons being the Owners of such Dock, Basin, Cut, or Work, to order that no Mud or Silt dredged or lifted from such Dock, Basin, Cut, or Work should, after the Expiration of such Period as shall be prescribed in such Order, be cast into the said River, and if the Company, Corporation, or other Persons throw any such Mud or Silt into the River, contrary to such Order

No Mud to be cast into the River except as Admiralty direct.

Penalty.

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of the Lords of the Admiralty, every such Person shall be liable to a Penalty of Ten Pounds for every such Offence: Provided always, that the Lords of the Admiralty shall give Three Months previous Notice to the Company, Corporation, or Persons being Proprietors of such Dock, Basin, Cut, or Work, of their Intention to make such Order, and shall in such Order allow a reasonable Time, not being less than Twelve Months, for enabling such Company, Corporation, or Persons to make Arrangements for landing such Mud or Silt.

Section 10
in Kingston-
upon-Hull
Dock Act,
1849, re-
pealed.

XXVII. That from and after the Twenty-eighth Day of *July* One thousand eight hundred and fifty-three, the Tenth Section of the "*Kingston-upon-Hull* Dock Act, 1849," shall be repealed, and the Company shall be subject to the Provisions in this Act contained.

Restrictions
as to Place
and Time of
casting Mud.

XXVIII. That, notwithstanding the Repeal of the said Tenth Section of such Act, no Mud dredged or lifted from the Docks, Basins, Cuts, or Works of the Dock Company at *Kingston-upon-Hull* shall be cast into the River *Humber* by the Company; or any other Person, to the Westward of a Line to be drawn in a Southward Direction across the said River from the Westward Entrance from the said River into the new Dock called the *Victoria* Dock, nor at any other Time of the Tide than between the Period of High Water and the End of the Second Hour after High Water, until the Lords of the Admiralty, on the Report of the Conservator, shall determine upon some other Place in the River, or some other Time of Tide, being adopted: Provided always, that the Company or any other Person shall not be liable to any Penalty for casting Mud dredged or lifted from the Docks, Basins, Cuts, or Works of the Company into the said River at any Time hereafter within the Part of the River to which the Restrictions aforesaid do not extend, until the Admiralty shall order and determine that the casting of such Mud or Silt into the River shall be discontinued as herein provided.

Trinity
House may
subscribe for
Life Boats.

XXIX. That the Guild or Brotherhood of Masters and Pilots Seamen of the *Trinity House in Kingston-upon-Hull* may from Time to Time, if and when they think fit, apply out of their Buoyage and Beaconage Fund such Sums as they think fit for or towards the Maintenance of the Life Boat Establishment at *Spurn Point* at the Entrance of the River.

Confirming
Agreement
as to cleans-
ing Old Har-
bour.

XXX. And whereas, by the recited *Kingston-upon-Hull* Dock Act, 1849, it was enacted, that the Dock Company should, within One Year from the passing of that Act, cleanse the Old Harbour, and should remove all Obstructions to the Ebb and Flow of the Tide therein, according to such Plan as in that Act is more particularly described, but subject to a Proviso, that if within One Year from the
passing

The River Humber Conservancy Act, 1852.

passing of that Act legal Proceedings should be taken by that Company, or by any Corporation, Commissioner, or Person, against any other Corporation, Commissioners, or Persons, for the Purpose of fixing upon such last-mentioned Corporation, Commissioners, or Persons the Liability to cleanse the Old Harbour and to remove Obstructions therein, then the Liability of that Company to perform such Works under the Provisions of that Act should be extended to a Period of Three Years, computed from the passing of that Act; provided that if that Liability should at any Time be fixed upon such other Corporation, Commissioners, or Persons, no greater or other Liability to perform such Works should thereafter attach to that Company than if that Act had not been passed; and it was provided that nothing in that Act contained should exonerate or discharge any Corporation, Company, Commissioner, or Person or Persons, if any, from the Liability to cause such cleansing or Removal as aforesaid: And whereas at the General Quarter Sessions of the Peace holden in and for the Borough of *Kingston-upon-Hull* on the Fifth Day of *January*: One thousand eight hundred and fifty, the Grand Jury at those Sessions found and returned a true Bill of Indictment against the Mayor, Aldermen, and Burgesses of the Borough of *Kingston-upon-Hull*, and thereby presented that certain Parts of the Old Harbour were then foul, choked up, narrowed, and otherwise obstructed, to the common Nuisance of Her Majesty's liege Subjects using the Port, and that the Mayor, Aldermen, and Burgesses were liable to cleanse the Old Harbour and remove the Obstructions therefrom, and the Grounds of such Liability were laid in various Manners in the several Counts of the Indictment: And whereas in the Third and Ninth Counts respectively of the Indictment such Liability was charged upon the Mayor, Aldermen, and Burgesses, by reason of their Tenure of the Port: And whereas the Indictment was preferred by the Dock Company, and was removed by Certiorari into Her Majesty's Court of Queen's Bench: And whereas, in order to terminate the Disputes which had arisen between the Mayor, Aldermen, and Burgesses, and the Dock Company, touching the Indictment, and the Existence, Nature, and Extent of those several Liabilities and the Grounds thereof, it was agreed by and between the Mayor, Aldermen, and Burgesses, and the Dock Company, that the Expense of all necessary cleansing and repairing of and Removal of Obstructions in the Old Harbour should thenceforth and for all Time to come be paid and borne by the Mayor, Aldermen, and Burgesses, and by the Dock Company, in the Shares or Proportions following; that is to say, Two Third Parts thereof by the Mayor, Aldermen, and Burgesses, and the remaining One Third Part thereof by the Dock Company: And whereas by Indenture bearing Date the Twentieth Day of *June* in the Year of our Lord One thousand eight hundred and fifty, and made between the Mayor, Aldermen, and Burgesses of the
the

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the One Part, and the Dock Company of the other Part, certain Covenants were entered into for the Purposes of carrying the Agreement into effect, and for ascertaining and regulating the Times when and the Circumstances under which such Expenses should be incurred, and by whom the Work should be performed, and the Times and Manner of making such Payments, as either of the Parties should, by virtue of that Indenture, be bound to make to the other of them, and for settling all Disputes that might arise between those Parties in any Manner relating thereto: And whereas, for the more easily carrying into effect the Arrangements, the Mayor, Aldermen, and Burgesses agreed to and did accordingly plead guilty to the Third and Ninth Counts of the Indictment, the Dock Company agreeing, so far as they lawfully might, to give up the further Prosecution of the several other Counts of the Indictment: And whereas the Indenture was laid before the Town Council of the Borough at a Meeting of the Council, lawfully convened, and also before the Dock Company, at a Special Meeting of that Company, and was approved by such respective Bodies, and the respective Common Seals of the Mayor, Aldermen, and Burgesses, and of the Dock Company have been affixed thereto: And whereas it is expedient that the recited Arrangement should be confirmed by Authority of Parliament: Be it enacted, That the recited Indenture, and the Covenants, Stipulations, and Agreements therein contained, shall be binding upon the Mayor, Aldermen, and Burgesses, and upon the Dock Company respectively, in all respects as fully and effectually as if the same had been enacted in this Act; and the Mayor, Aldermen, and Burgesses shall from Time to Time, and at all Times for ever hereafter, well and effectually cleanse and repair the Old Harbour, and remove all Obstructions to the Ebb and Flow of the Tide therein, according to such Plan and in such Manner as shall from Time to Time be directed or approved of by the Lord High Admiral, or the Commissioners for executing the Office of Lord High Admiral, such Direction or Approval to be signified in Writing under the Hand of the Secretary of the Admiralty; that all Costs, Damages, and Expenses of and incident to and consequent on such cleansing, repairing, and removing shall be borne and paid, in the first instance, by the Mayor, Aldermen, and Burgesses, and One equal Third Part of all such Costs, Damages, and Expenses, with Interest on such One Third Part after the yearly Rate of Four Pounds in the Hundred, from the Time of the bearing or paying of such Costs, Charges, and Expenses, shall from Time to Time, on Demand, be paid to the Mayor, Aldermen, and Burgesses by the Dock Company, and if not so paid on Demand may be recovered, with full Costs of Suit, by Action, Plaint, or other Proceeding in any Court of competent Jurisdiction: Provided always, that this Act, or anything therein contained, or the recited Indenture, or anything therein contained, or any of the Proceedings

or

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or Things herein-before recited, shall not take away, lessen, or alter any Obligation, Liability, or Duty whatsoever to which any Corporation, Body, or Person (other than the Mayor, Aldermen, and Burgesses, and the Dock Company, respectively,) now is subject to cleanse or repair the Old Harbour, or any Part thereof, or to remove any Obstruction to the Ebb and Flow of the Tide therein, or to bear or pay or to contribute towards all or any Part of the Costs or Expenses of or incident to or consequent on any such cleansing, repairing, or removing, or otherwise with respect to any such cleansing, repairing, removing, Costs, or Expenses.

XXXI. That the Clauses of the Railway Clauses Consolidation Act, 1845, with respect to the Recovery of Damages not specially provided for, and of Penalties, and to the Determination of any other Matter referred to Justices, shall be incorporated with this Act.

Certain Clauses of 8 & 9 Vict. c. 20. incorporated with this Act.

XXXII. That nothing in this Act contained shall extend to take away, diminish, or affect any Right, Power, Privilege, or Jurisdiction of the Guild or Brotherhood of Masters and Pilots Seamen of the *Trinity House in Kingston-upon-Hull*.

Saving Rights of Trinity House.

XXXIII. That nothing in this Act contained shall extend to take away, diminish, or affect any existing Rights, Privileges, or Powers now vested in the *Manchester, Sheffield, and Lincolnshire Railway Company*, but the said Company shall, notwithstanding any of the Provisions of this Act, have all such Powers and Privileges for the Construction and Maintenance of any Works and the Performance of any Acts authorized to be executed and performed by them, or for the Alteration of such Works, in accordance with such Powers as they already possess, as they could have had if this Act had not been passed.

Saving Rights of Manchester, Sheffield, and Lincolnshire Railway Company.

XXXIV. That nothing in this Act shall extend to alienate, defeat, vary, lessen, abrogate, or prejudice any Estate, Right, Title, Interest, Prerogative, Royalty, Jurisdiction, or Authority of or appertaining to the Queen's most Excellent Majesty, Her Heirs or Successors, nor to abridge, vary, or abrogate any of the Powers or Authorities by Law vested in the Lords of the Admiralty, or in the Commissioners of Her Majesty's Customs, or in the Commissioners for the Time being of Her Majesty's Woods, Forests, and Land Revenues, or in the Commissioners for the Time being of Her Majesty's Works and Buildings, in relation to the Possessions and Land Revenues of Her Majesty in right of Her Crown, or otherwise howsoever, or in the Commissioners of Sewers appointed by the Crown for the East Parts of the East Riding of the County of *York*, or in the Trustees or Commissioners appointed or to be appointed under any Local or Private Act of Parliament for the draining, preserving, and improving of Land.

General Saving of Rights.

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Any Land reclaimed by the Works not to be taken without Consent of the Commissioners of Woods, &c.

XXXV. That if, in the course or by means of the Execution of any Works by the said Commissioners, any Part of the Shores or Bed of the said River *Humber*, or any Creek thereof, so far as the Tide flows or reflows, belonging to Her Majesty, shall be inned, gained, or reclaimed from the Water, the said Commissioners shall not have or exercise any Right upon the same or in respect thereof, but such inning, gaining, or Reclamation shall enure absolutely for the Benefit of Her Majesty the Queen, Her Heirs and Successors; and it shall not at any Time afterwards be lawful for the said Commissioners to take, enter upon, or interfere with the Land so inned, gained, or reclaimed, for any Purpose whatsoever, without the Consent in Writing of the Commissioners for the Time being of Her Majesty's Woods, Forests, and Land Revenues, or One of them.

Saving Rights of Trustees of River Ouse Navigation.

XXXVI. That nothing in this Act shall defeat, lessen, prejudice, alter, take away, or affect any of the Rights, Privileges, Powers, or Authorities vested in or enjoyed by the Mayor, Aldermen, and Citizens of the City of *York* (being the Corporation of the said City), or any Officer or Member thereof, or by the Undertakers of the Navigation of the Rivers *Aire* and *Calder*, or their Directors or Trustees, or any of their Officers for the Time being, under or by virtue of any Public or Private Act of Parliament relating to or concerning the River *Ouse* in the County of *York*, or the Navigation thereof, or of any Part thereof, nor the Rights, Privileges, Powers, or Authorities vested in or enjoyed by the Trustees appointed or acting by or by virtue of an Act of Parliament made and passed the Thirteenth Year of the Reign of His late Majesty King *George* the First, intituled *An Act for improving the Navigation of the River Ouse in the County of York*, or by or by virtue of an Act of Parliament made and passed in the Fifth Year of the Reign of His late Majesty King *George* the Second, intituled *An Act for rendering more effectual an Act passed in the Thirteenth Year of the Reign of His late Majesty King George the First, intituled 'An Act for improving the Navigation of the River Ouse in the County of York,'* or by or by virtue of any other Act of Parliament relating to or concerning the said River *Ouse*, or the Navigation thereof or any Part thereof, or otherwise howsoever.

Expenses of Act.

XXXVII. That the Costs, Charges, and Expenses of applying for, obtaining, and passing this Act shall be paid out of the Funds of the Dock Company at *Kingston-upon-Hull*.

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