

An examination of the statutes is our first duty. It is enacted by 37 Vict. (1874), ch. 29, as follows:—

"Whenever, in the opinion of the Minister of Marine and Fisheries, the navigation of any river, lake, bay, creek, harbor, or other navigable water over which the jurisdiction of the Parliament of Canada extends, is obstructed, impeded or rendered more difficult or dangerous by reason of the wreck, sinking or lying ashore or grounding of any vessel or craft whatever, or of any part thereof, or other thing, and whether the cause of such obstruction occurred before or after the passing of this act, then if such obstruction continues for more than twenty-four hours, the said minister may, under the authority of an order of the Governor-in-council, cause the same to be removed or destroyed in such manner and by such means as he may think fit, including the use of gunpowder or other explosive substance if he deems it advisable, and may cause such vessel, craft, or its cargo, or the material or thing causing or forming part of such obstruction, to be conveyed to such place as he may think proper, and to be there sold by auction or otherwise as he may deem most advisable, and may apply the proceeds of such sale to make good the expenses incurred for the purposes aforesaid, paying over any surplus of such proceeds to the owner or owners of the things sold, or other parties entitled to such proceeds or any part thereof, respectively."

This section neither created a statutory liability on the part of the owner nor affected his responsibility at common law. It simply enabled the Minister of Marine and Fisheries, under the authority of an order-in-council, to keep the channels of navigable waters clear of obstructions. To make these expenses specifically chargeable against not only the wreck but its owner, an amendment in the following terms was enacted by 43 Vic., (May, 1880), ch. 30, sec. 1:—

"Whenever under the provisions of the act cited in the preamble, (37 Vict., ch. 29) the Minister of Marine and Fisheries has, under the authority of an order of the Governor-in-council, caused any obstruction or impediment to the navigation of any navigable river, by the wreck, sinking or lying ashore, or grounding of any vessel, craft, or part thereof, or other thing, to be removed or destroyed, and the cost of removing and destroying the same has been defrayed out of the public moneys of the Dominion, then if the net proceeds of the sale under the said act,