



CHAPTER cxxxix.

An Act to revive the Powers for the compulsory purchase of Lands for and to extend the time limited for the completion of the Railways authorised by the Mersey Docks and Harbour Board (*Overhead Railways*) Act 1882; and to authorise the Mersey Docks and Harbour Board to make and maintain additional *Overhead Railways*; and for other purposes. A.D. 1887.
[19th July 1887.]

WHEREAS by the Mersey Docks and Harbour Board (*Overhead Railways*) Act 1882 (in this Act referred to as "the Act of 1882") the Mersey Docks and Harbour Board (in this Act called "the Board") were authorised to make and maintain as double lines certain overhead or high-level railways therein described (in this Act referred to as "the authorised railways") in connexion with certain of their docks on the Liverpool side of the River Mersey in substitution for the single lines of overhead or high-level railway described in and authorised by the Mersey Docks and Harbour Board (*Overhead Railways*) Act 1878 (which last-mentioned Act was repealed by the Act of 1882) and to borrow for the purposes of the Act of 1882 sums not exceeding in the whole six hundred and fifty thousand pounds:

And whereas by the Act of 1882 the time for the compulsory purchase of lands for the purposes of that Act was limited to three years from the passing of that Act and the time for completion of the authorised railways was limited to five years from the passing of that Act which received the Royal Assent on the tenth day of August one thousand eight hundred and eighty-two:

And whereas it is expedient that the powers of the Board for the compulsory purchase of lands for the purposes of the authorised railways should be revived and extended and that the time for completing the said railways should be extended as herein-after provided:

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And whereas it is expedient that the Board should be authorised to make and maintain in connexion with the said authorised railways the additional overhead or high-level railways herein-after described :

And whereas by section 30 of the Act of 1882 the Board were authorised to demise or lease the authorised railways to and enter into working and other agreements or arrangements with any company incorporated by Act of Parliament and it is expedient that the provisions of the said section should be made applicable to the railways by this Act authorised :

And whereas plans and sections showing the lines and levels of the railways authorised by this Act and a book of reference to the said plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be used for the purposes or under the powers of this Act were duly deposited with the clerk of the peace for the county palatine of Lancaster and are herein-after respectively referred to as the deposited plans sections and book of reference :

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 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 :—

Short title.

1. This Act may be cited as the *Mersey Docks and Harbour Board (Overhead Railways) Act 1887*.

Incorporation of Acts.

2. The Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883 (herein-after referred to as "the Lands Clauses Acts") the Railways Clauses Consolidation Act 1845 Part I. (relating to construction of a railway) and Part II. (relating to extension of time) of the Railways Clauses Act 1863 and so much of the *Mersey Dock Acts Consolidation Act 1858* as relates to the meanings to be assigned to certain words and expressions (being section 3 of that Act) and the whole of Part XIII. of that Act (with respect to borrowing powers and dock debt) are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction and

in construing for the purposes of this Act any Act wholly or partially incorporated herewith the expression "the Company" shall mean the Board and the expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt and not a debt or demand created by statute. A.D. 1887.

4. The powers of the Board under the Act of 1882 with respect to the compulsory purchase or taking of and entry upon the lands delineated on the plans and described in the books of reference deposited for and referred to in the Act of 1882 are hereby revived and extended and may be exercised at any time within but shall not be exercised after the expiration of three years from the passing of this Act. Revival of powers of Act of 1882 for compulsory purchase of lands.

5. Nothing in this Act shall release the Board from liability to purchase or to complete the purchase of any lands in respect of which any contract may have been entered into or notice given by the Board under the powers of the Act of 1882 for the purposes of or in relation to any portion of the railway or works authorised by that Act but notwithstanding the cesser of such powers between the tenth day of August one thousand eight hundred and eighty-five and the revival thereof by this Act every such contract or notice shall as against the Board be construed and take effect and the same proceedings may be had thereunder and all parties thereto other than the Board and trustees and agents for the Board shall be entitled to the same rights and remedies in respect thereof at law and in equity as if the powers for purchasing land conferred by the Act of 1882 and this Act had been continuous and had not ceased as aforesaid. Contracts and notices to take land not to be affected.

6. The time limited by the Act of 1882 for the completion of the authorised railways is hereby extended to five years from the passing of this Act and that period shall for all purposes be deemed to be the period originally limited for the construction of the same. Extension of time for completion of authorised railways.

7. If the authorised railways are not completed within the period limited by this Act then on the expiration of such period the powers by the Act of 1882 and this Act granted to the Board for making and completing the same or otherwise in relation thereto shall cease to be exercised except as to so much thereof as shall then be completed. If authorised railways not completed within extended time powers to cease.

8. Subject to the provisions of this Act the Board may make and maintain in the line and according to the levels shown on the deposited plans and sections the railways herein-after described with all proper Power to make railways.

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A.D. 1887. — and sufficient viaducts columns bridges rails sidings turntables stations approaches roads buildings yards and other works and conveniences connected therewith and may enter upon take and use such of the lands delineated on the said plans and described in the deposited book of reference as may be required for that purpose The railways herein-before referred to and authorised by this Act are :—

(1A.) A Railway (No. 1A) four furlongs and 3·63 chains or thereabouts in length commencing by a junction with the Railway No. 1 authorised by the Act of 1882 at a point about two and a quarter chains northward from the south-eastern corner of the Princes Dock and terminating by a junction with the said authorised Railway No. 1 at a point about one and a half chains south-eastward from the north-eastern corner of the Salthouse Dock.

(2A.) A Railway (No. 2A) five furlongs and 0·36 chains or thereabouts in length commencing by a junction with the said authorised Railway No. 1 opposite or nearly opposite the western end of Sparling Street and terminating by a junction with the said authorised Railway No. 1 opposite or nearly opposite the western end of Warwick Street.

As to lateral and vertical deviation.

9. In constructing the railways and works by this Act authorised notwithstanding anything contained in the Railways Clauses Consolidation Act 1845 the Board may deviate laterally from the line or situation thereof as shown on the deposited plans to any extent within the limits of lateral deviation shown on the said plans and they may deviate vertically from the levels of the said railways and works so far as they are shown on the deposited sections to any extent not exceeding five feet either upwards or downwards and the Board shall make compensation in manner provided by the Lands Clauses Acts to all persons injuriously affected by the exercise of the powers of deviation given by this section.

Period for compulsory purchase of lands.

10. The powers of the Board for the compulsory purchase of lands for the purposes of the railways by this Act authorised shall not be exercised after the expiration of three years from the passing of this Act.

Power to take easements &c. by agreement.

11. Persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the Board any easement right or privilege not being an easement of water required for the purposes of this Act in over or affecting any such lands and

the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

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12. If the railways by this Act authorised are not completed within five years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Board for making and completing the same or otherwise in relation thereto shall cease to be exercised except as to so much thereof as is then completed.

Period for completion of works.

13. The Company shall not under the powers of the Act of 1882 or this Act without the sanction of the Local Government Board purchase or acquire in any city borough or other urban sanitary district or in any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partly by persons belonging to the labouring class as tenants or lodgers For the purposes of this section the expression "labouring class" includes mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any of such persons who may be residing with them.

Restriction on displacing persons of labouring class.

14.—(1.) Subject to the provisions of the section next herein-after contained and except so far as the Board and the corporation may hereafter agree all the provisions contained in the agreement scheduled to the said Act of 1882 shall apply to the railways hereby authorised and the said railways shall be deemed in all other respects to form a part of the railways authorised by the said Act of 1882.

For the protection of the corporation of Liverpool.

(2.) The additional railways hereby authorised shall not be constructed by the Board otherwise than in the lines and on the levels in such position and in accordance with such plans sections and elevations as the corporation shall require and approve of.

15. The Board shall for the protection of the London and North-western Railway Company (in this section referred to as "the company") unless the Board and the company otherwise agree observe perform and be bound by the following provisions stipulations and conditions (that is to say):—

For the protection of the London and North-western Railway Company.

(1.) The Board in making the Railway Number 2a where the same shall cross over the lines of rails belonging to or used by the

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company leading to their Wapping Goods Station shall construct and maintain the bridge for such crossing of the clear height of not less than fifteen feet measured from the level of the existing rails and with a clear span over the whole of the rails at such crossing and so that no column or other fixed work shall be nearer to either of the outside rails at such crossing than three feet;

(2.) In case any damage or injury shall be caused to the said Wapping Goods Line or to the works land or property of the company which are crossed or interfered with by the works authorised by this Act such damage or injury shall forthwith be made good by the Board to the company or the company may make good such damage or injury and recover the costs and expenses thereof from the Board in any court of competent jurisdiction;

(3.) The pillars by which it is proposed to support the Railway Number 2a where the same is intended to be constructed in front of and adjoining the Wapping Goods Station and property of the company shall only be placed in such positions as shall have been previously agreed upon between the engineer of the Board and the principal engineer of the company and so as in no way to obstruct impede or interfere with the free and uninterrupted access to the said Wapping Goods Station;

(4.) In the construction of the said railway the Board shall before commencing any work or operation which will obstruct or delay the passage of the company's traffic over the said Wapping Goods Line of the company give to the company four clear days notice in writing addressed to the company at their Euston Station specifying the place or places at which such work or operation is to be performed and the time at which the same will be commenced and on the expiration of such notice the Board or their agents or contractors may for a period of sixty hours after the time named for the commencement of any such work or operation prosecute the same and the company shall not in any case have any claim on the Board for any compensation in respect of any obstruction or delay which may be caused to the traffic during such period of sixty hours. If on any occasion it shall be found that any work or operation in respect of which notice shall have been given as aforesaid cannot be completed within such period of sixty hours then the company shall have no claim on the Board or their agents or contractors for compensation for any obstruction or delay caused to their traffic by the continued prosecution of such work or

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operation after such period of sixty hours unless there shall have been unreasonable delay in the execution of such work or operation in which case the damage if any caused to the company by the obstruction or delay of their traffic during any period after the expiration of the said period of sixty hours by such unreasonable delay in the execution of such work or operation shall be made good by the Board to the company and the amount of such damage may if necessary be recovered with costs by the company from the Board in any court of competent jurisdiction;

(5.) If hereafter the Board at the request of the company should sanction the laying down by the company of any other branch lines to connect any station or depôt of the company with the Board's lines of dock railways and it should in the opinion of the Board be necessary or desirable for the proper working of any such branch line that the width of any of the longitudinal spaces between the columns by which the railways by this Act authorised will be supported should be increased the necessary works for effecting that object shall (subject to the provisions of this Act) be carried out by the Board in such manner as shall from time to time be agreed upon between the engineers of the Board and the company and the company shall on demand pay to the Board all costs charges and expenses properly incurred by the Board in carrying out such work;

(6.) Save as in this Act expressly provided nothing contained in or to be done under this Act shall prejudice or affect the position of the Board or of the company in respect of the Board's lines of dock railways or the branch lines connecting the same with any station of the company.

16. Notwithstanding anything in this Act contained it shall not be lawful for the Board without the previous consent in writing of the Cheshire lines committee or the Sheffield and Midland Railway Companies committee as the case may be under their common seal to enter upon take or interfere with any works lands or property at any time belonging to or in the possession or under the power and control of those committees respectively.

For the protection of the Cheshire lines committee and the Sheffield and Midland Railway Companies committee.

17. If in the construction of the railways by this Act authorised it shall become necessary to remove or interfere with any existing customs depôt the Board shall before removing or interfering with such depôts provide other and equally suitable accommodation for the officers of customs.

For protection of customs depôts &c.

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Tolls &c. on
railways.

18. The railways by this Act authorised shall for the purposes of tolls rates rents and charges and for all other purposes be deemed to be part of the railways authorised by the Act of 1882.

Power to
apply funds.

19. The Board may apply for any of the purposes of this Act to which capital is properly applicable any moneys which by the Act of 1882 they are authorised to borrow and which are not by that or any subsequent Act made applicable to any special purpose or which being so made applicable are not required for such special purpose.

Power to
lease rail-
ways and
enter into
working &c.
agreements.

20. Sections 30 to 34 (both numbers inclusive) of the Act of 1882 are hereby repealed and in lieu thereof be it enacted that:—

(A.) The Board may from time to time demise or lease to any company incorporated by special Act of Parliament the railways authorised by the Act of 1882 and this Act or any or either of them or any part or parts thereof respectively and the works lands buildings and conveniences connected therewith respectively and all or any of the rights powers and privileges for or connected with the working and maintenance of the same and of taking demanding levying and recovering tolls rates and charges conferred on the Board by the Act of 1882 or this Act upon such terms (pecuniary or other) and conditions and for such period or periods not exceeding in any case sixty years as may be agreed and the Board and any such company may from time to time enter into carry into effect vary and rescind contracts agreements or arrangements for any such purpose or (subject to the provisions of Part III. of the Railways Clauses Act 1863 as amended or varied by the Regulation of Railways Act 1873) for the working use maintenance and management of the said railways or any or either of them or any part or parts thereof respectively by such company the management regulation interchange collection transmission and delivery of traffic upon or coming from or destined for the said railways or any or either of them or any part or parts thereof respectively the supply and maintenance under any agreement for the said railways or any or either of them or any part or parts thereof respectively being worked and used by such company of engines stock and plant necessary for the purposes of such agreement the fixing collection payment and appropriation of the tolls rates income and profits arising from the said railways or any or either of them or any part or parts thereof respectively and the employment of officers and servants and such company may accept a lease

or enter into and carry into effect vary and rescind contracts agreements or arrangements accordingly and may apply their funds and revenues for the purposes of such lease and of any such agreement as aforesaid and may have hold exercise and enjoy all or any of the rights powers and privileges demised or agreed to be demised to or to be exercised by them as aforesaid.

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(B.) The consideration for any such lease or agreement may as the Board and any such company agree be by way of yearly or other payment whether fixed fluctuating terminable contingent or otherwise or by way of immediate or future payment of any fixed contingent or other sum of money or by more than one of those ways or by making and securing any other benefit to the Board and either with or without any consideration or compensation in any one or more of those ways Provided that any premium which may be paid to the Board for or upon such lease shall be applied in the repayment of the moneys for the time being borrowed by the Board.

Consideration for lease.

(C.) In accordance with the terms agreed on under this Act between the Board and such company such company and their officers and servants respectively shall be entitled under the agreement in that behalf and from the time thereby appointed for the lease or agreement to take effect and to the extent and in manner therein mentioned to the management regulation maintenance user working and enjoyment of the premises comprised in the respective contract and of the traffic thereon and to the regulating taking and enjoying of the tolls fares rates charges and other payments and advantages in respect thereof.

Lease to entitle lessees to premises leased.

(D.) All the rights powers and privileges of the Board and their officers and servants respectively which by virtue of any of the Acts relating to the Board the Act of 1882 and this Act respectively might be exercised and enjoyed by them respectively with respect to the premises included in the lease or agreement and which in accordance with the terms and conditions of the agreement or this Act are to be exercised and enjoyed by the lessees and their officers and servants respectively with respect to such premises shall be exercised and enjoyed accordingly under and with the same regulations restrictions conditions obligations penalties and immunities in accordance with those Acts and this Act respectively as by the Board and their officers and servants respectively.

Powers of Board as to premises leased to be exercised by lessees.

(E.) In accordance with the terms and conditions of any lease or agreement in that behalf entered into under this Act between

Transfer to lessees of premises leased.

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the Board and any such company all the premises included in or forming the subject-matter of any such lease or agreement as aforesaid and the rights powers privileges and authorities to be in accordance with this Act exercised and enjoyed by the lessees with respect to the same shall at the time by the agreement appointed in that behalf be by this Act and subject to the provisions thereof and subject also to the other provisions (if any) of any lease conveyance or agreement executed in accordance with this Act transferred to and vested in the lessees absolutely:

Provided always that within three months from the date of any lease the lessees shall produce to the Commissioners of Inland Revenue a lease duly stamped and in default of such production the ad valorem stamp duty with interest thereon at the rate of five pounds per centum per annum from the date of the lease to the date of payment shall be recoverable from the lessees with full costs of suit and all costs and charges attending the same.

Classification table to be open to inspection and copies to be sold.

21. The books tables or other documents in use for the time being containing the general classification of goods carried by goods or merchandise train on the railways of the Board shall during all reasonable hours be open to the inspection of any person without the payment of any fee at every station at which goods or merchandise are received for transmission and such books tables or other documents as annually revised shall be kept on sale at the principal office of the Board at a price not exceeding one shilling The Board shall within one week after application in writing made to the secretary of the Board by any person interested in the carriage of any goods which have been or are intended to be carried over the railways render an account to the person so applying in which the charge made or claimed by the Board for the carriage of such goods shall be divided and the charge for conveyance over the railways shall be distinguished from the terminal charges (if any) and if any terminal charge is included in such account the nature and detail of the terminal expenses in respect of which it is made shall be specified If the Board fail to comply with the provisions of this section they shall for each offence and in the case of a continuing offence for every day during which the offence continues be liable to a penalty not exceeding five pounds which penalty shall be recovered and applied in the same manner as penalties imposed by section 14 of the Regulation of Railways Act 1873.

Terminal charges (if any) to be specified on application.

Penalty.

Provision as to general Railway Acts.

22. Nothing in this Act contained shall exempt the Board or any company or the railways authorised by the Act of 1882 and this Act from the provisions of any general Act relating to railways

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or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels authorised by the Act of 1882. A.D. 1887.

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

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