



CHAPTER clxx.

An Act to confer further powers upon the Mersey Docks and Harbour Board and for other purposes. A.D. 1897

[6th August 1897.]

WHEREAS by the Mersey Docks and Harbour Act 1857 (being an Act for consolidating the docks at Liverpool and Birkenhead into one estate and for vesting the control and management of them in one public trust and for other purposes) the Mersey Docks and Harbour Board (in this Act called "the Board") were incorporated for the purposes therein mentioned :

And whereas in order to meet the requirements of the trade of the port of Liverpool it is expedient that the Board be authorised to construct the works and to acquire the lands mentioned in this Act :

And whereas in order to prevent danger and inconvenience to vessels frequenting the port it is expedient that the Board be empowered to make byelaws for regulating and controlling and if they so resolve to prohibit fishing upon the bar at the sea entrance of the River Mersey within the limits herein-after in that behalf defined :

And whereas by the Mersey Docks and Harbour Board (Overhead Railways) Act 1882 as amended by the Mersey Docks and Harbour Board (Overhead Railways) Act 1887 and the Mersey Docks and Harbour Board Act 1889 the undertaking known and herein-after referred to as "the Liverpool Overhead Railway" was authorised and the Liverpool Overhead Railway Company (in this Act called "the Overhead Railway Company") incorporated by the Liverpool Overhead Railway Act 1888 were by those Acts and certain agreements dated respectively the 12th day of April and the 13th day of December 1888 (which agreements were respectively scheduled to and confirmed by the said Acts of 1888 and 1889 and are in this Act referred to as "the scheduled agreements") empowered as lessees of the Board to execute maintain and work the Liverpool Overhead Railway :

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And whereas the Overhead Railway Company were by the Liverpool Overhead Railway Act 1892 authorised to make and maintain railways (the Northern Extension Railway and the Southern Extension Railway) in extension of the Liverpool Overhead Railway and provision was by section 35 of that Act made for (amongst other things) the Southern Extension Railway forming part of the undertaking comprised in the scheduled agreements unless the Board should by notice to be given within the time and in manner therein provided declare that they did not desire the southern extension to form part of the said undertaking :

And whereas the Board by notice dated the 2nd day of February 1894 and given in manner provided by the said section 35 declared that they did not desire the southern extension to form part of the said undertaking but at the request of the said company have agreed to withdraw and have accordingly withdrawn the said notice subject to the legality of their so doing being confirmed by Parliament and the company have agreed subject to the same condition to allow and accept the withdrawal of the said notice and it has been mutually agreed that on the sanction of Parliament being obtained the Southern Extension Railway shall be deemed to form part of the undertaking comprised in the scheduled agreements as if no notice to the contrary effect had been given by the Board and it is expedient that provision be made for giving effect to the said agreement as embodied in an agreement made the 15th day of March 1895 under the common seals of the Board and of the Overhead Railway Company respectively :

And whereas by section 146. of the Mersey Dock Acts Consolidation Act 1858 (herein-after called "the Act of 1858") provision was made for the setting aside by the collector of pilotage rates of the sum of one and a half per centum out of the gross earnings or total amount of the rates on pilotage of each of the pilot boats licensed by the Board to be used for the pilotage service of the port of Liverpool and their masters and crews respectively in order to maintain and keep up the Pilotage Annuity Fund constituted by that Act and by section 147 of the same Act provision was made for the payment to the collector by every pilot whose earnings should not literally come into the hands of the collector of a like amount of one and a half pound per centum out of his gross earnings :

And whereas the pilots are desirous and it is expedient that the per-centage prescribed by sections 146 and 147 of the Act of 1858 as aforesaid so far only as the contribution of pilots is concerned be increased from one and a half per centum to six per centum :

And whereas it is expedient that the Board be authorised to borrow further moneys for the purposes of this Act :

And whereas plans and sections of the works by this Act authorised showing the lines or situation and levels thereof and the lands by this Act authorised to be acquired and a book of reference to the plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of such lands were deposited with the clerk of the peace for the county of Chester on or before the 30th day of November 1896 and amended plans and sections were on the 12th day of December 1896 deposited with the said clerk of the peace and are in this Act referred to as the amended deposited plans sections and the deposited book of reference respectively : A.D. 1897.

And whereas the objects of this Act cannot be attained 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 :—

1. This Act may be cited as the Mersey Dock Act 1897.

Short title.

2. The Lands Clauses Acts (except the sections of the Lands Clauses Consolidation Act 1845 numbered 127 to 132) and so much of the Act of 1858 as relates to the meanings to be assigned to certain words and expressions (being section 3 of that Act) except so far as those meanings may be inconsistent with this Act are respectively incorporated with and form part of this Act and in construing the Lands Clauses Acts the Board shall be deemed the promoters of the undertaking Section 267 (Exemption of vessels in Her Majesty's service &c. from rates) of the Act of 1858 shall be deemed to include and apply to the works by this Act authorised.

Incorporation of Acts.

3. Subject to the provisions of this Act the Board may make and maintain in the lines or situation and according to the levels shown on the amended deposited plans and sections the works herein-after described with all necessary and proper shipping places piers wharves sheds custom-houses roofs watch houses viaducts columns staiths jetties bridges stairs landing places stages booms quays buildings yards fences gates entrances slips cranes hydraulic and other lifts dolphins buoys moorings mooring chains roads approaches sewers drains culverts sluicing apparatus 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 works herein-before referred to and authorised by

Power to make works.

A.D. 1897. this Act are situate in the county of Chester and on the bed and shore of the River Mersey and are—

(A) An extension of the floating landing stage (commonly called the Wallasey Landing Stage) authorised by the Mersey Docks (South Reserve Landing Stage) Act 1873 for a distance of about 250 feet in a northerly direction from the northern end of the said landing stage :

(B) A fixed pier with a bridge in continuation thereof for connecting the existing river wall with the said extension of the said Wallasey Landing Stage.

Lateral and vertical deviations.

4. In executing the works by this Act authorised the Board may deviate laterally from the lines thereof shown on the deposited plans to any extent within the limits of deviation shown thereon and vertically from the levels thereof shown on the amended deposited sections to any extent not exceeding five feet Provided that no deviation of any works authorised by this Act within the limits of deviation of which any public navigable tidal river or channel is included shall be made from the lines thereof as shown on the amended deposited plans even within the limits of deviation shown on such plans in such manner as to diminish the navigable space of such river or channel without the previous consent of the Mersey Conservancy Commissioners or otherwise than in such manner as is expressly authorised by the Mersey Conservancy Commissioners.

Period for compulsory purchase of lands.

5. The powers of the Board for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Power to take easements &c. by agreement.

6. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Board any easement right or privilege (not being an easement right or privilege of water in which other persons than the grantors have an interest) 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.

Errors and omissions in plans &c. to be corrected.

7. If there be any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the amended deposited plans or specified in the deposited book of reference the Board may after ten days' notice to the owners lessees and occupiers of the lands affected apply to a court of summary jurisdiction for the correction thereof and if it appear to such court that the omission misstatement or wrong description arose from

mistake they shall certify the same accordingly and they shall in such certificate state the particulars of any such omission and in what respect any such matter is misstated or wrongly described and such certificate shall be deposited with the clerk of the peace for the county of Chester and shall be kept by such clerk of the peace along with the other documents to which it relates and thereupon the amended deposited plans and the deposited book of reference shall be deemed to be corrected according to such certificate and the Board may take the lands in accordance with such certificate.

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8. The Board shall not under the powers of this Act purchase or acquire in any city borough or urban district or in any parish or part of a parish not being within an urban district ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Local Government Board ten or more houses which were not so occupied on the said fifteenth day of December but have since been or shall be subsequently so occupied.

Restriction on taking houses of labouring class.

For the purposes of this section the expression "labouring class" means and includes mechanics artisans 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 such persons who may be residing with them.

9. If the works by this Act authorised and shown on the amended deposited plans and sections are not completed within ten 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 except as to so much thereof as is then completed.

Period for completion of works.

10. For the purposes of rates and for all other purposes the works (A) and (B) by this Act authorised and each of them shall be deemed to be docks within the meaning of the Act of 1858.

Works to be deemed dock within meaning of Act of 1858.

11. The works by this Act authorised shall be deemed to be works authorised to be erected established and maintained by the Board within the meaning of section 284 of the Act of 1858 and all moneys expended by the Board for or in connexion with the purchase of lands or for compensation for the injuriously affecting of lands or otherwise for the purposes of this Act shall be deemed to be part of the cost of the works by this Act authorised.

Works to be deemed authorised works within meaning of Act of 1858.

12. The Board may from time to time make such byelaws as they shall think expedient for regulating and controlling fishing

Additional powers as to byelaws.

A.D. 1897. — upon the bar of the River Mersey at the sea entrance thereof within the bar buoys wherever for the time being situate or within the space between imaginary lines drawn north-west and south-east through such buoys respectively and extending for a distance of five hundred yards in each such direction therefrom and for restricting either during the whole or during a specific part or parts of the year and either absolutely or subject to such regulations as may be provided by such byelaws of fishing within such limits :

Provided that any such byelaw shall be sent to the clerk for the time being of the committee for the Lancashire Sea Fisheries District at the time when such byelaw or any alteration thereof shall be sent for the approval of some judge of one of the supreme courts or the Board of Trade pursuant to section 223 of the Act of 1858 :

And the provisions of Part X. and Part XV. (except section 328) of the Act of 1858 shall extend and apply to such byelaws and to all penalties and forfeitures fixed or appointed thereby as fully and completely as if the power to make vary alter or amend such byelaws had been included in the powers conferred by section 221 of that Act.

Board may prohibit fishing absolutely or for a specified period.

13. Notwithstanding any byelaw for the time being in force the Board may at any time and from time to time by resolution prohibit fishing within the limits aforesaid either absolutely or for a period to be specified in the resolution and may from time to time rescind any such resolution.

For protection of Lancashire Sea Fisheries Committee.

14. Nothing contained in this Act nor any byelaw affecting fishing made under any of the foregoing provisions shall authorise the Board to in any manner interfere with any official of the committee for the Lancashire Sea Fisheries District when fishing for scientific purposes Provided that the clerk or superintendent of the said committee shall give notice in writing to the secretary of the Board prior to commencing such fishing.

Confirming agreement with Overhead Railway Company.

15. The recited agreement between the Board and the Overhead Railway Company is hereby confirmed and sanctioned and it is hereby declared that the withdrawal by the Board of the notice herein-before referred to of the second day of February one thousand eight hundred and ninety-four and the allowance and acceptance by the said company of the withdrawal of that notice are and shall be deemed to be valid and effectual in law and that the Southern Extension Railway shall be deemed to form part of the undertaking comprised in the scheduled agreements as if no notice to the contrary had been given by the Board and the provisions of section 35 of the Liverpool Overhead Railway Act 1892 shall apply accordingly.

16. Sections 146 and 147 of the Act of 1858 are hereby repealed and in lieu thereof it is enacted as follows (that is to say):—

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—
Repeal of sections 146 and 147 of Act of 1858 and substituted enactments.

(1) In order to maintain and keep up the pilotage annuity fund the collector of pilotage rates shall from time to time set aside and pay into that fund the sum of six pounds per centum per annum upon and out of the gross amount of the pilotage rates earned by the pilots :

(2) For the like purpose every pilot whose whole earnings shall not literally come into the hands of such collector shall every year before he shall be entitled to have his licence renewed account for and pay to such collector a like amount of six per centum out of so much of his gross earnings for the past year as shall not have come into the hands of such collector :

(3) Nothing in this section shall in any way affect or alter the liability of the Board under section 14 of the Act of 1881 or under any other provision in relation to their contribution to the pilotage annuity fund.

17. Subject to the provisions of this Act the Board may from time to time for the purposes of this Act borrow at interest on the security of the rates for the time being belonging to them (exclusive of any sum or sums of money required for the completion of the Birkenhead docks and works and for the purposes specially provided for by the Mersey Docks and Harbour Act 1857) any further sum or sums not exceeding in the whole forty thousand pounds.

Further borrowing powers.

18. All moneys borrowed by the Board under the authority of this Act shall be applied by them for purposes of this Act to which capital is properly applicable and not otherwise.

Application of moneys borrowed under this Act.

19. The Board shall at or near the works below high-water mark hereby authorised during the whole time of the constructing altering or extending the same exhibit and keep burning at their own expense every night from sunset to sunrise such lights (if any) as the Board of Trade from time to time require or approve.

Lights on works during construction.

If the Board fail to comply in any respect with the provisions of this section they shall for each night in which they so fail be liable to a penalty not exceeding twenty pounds.

20. The Board shall at the outer extremity of their works below high water by this Act authorised exhibit and keep burning from sunset to sunrise such lights (if any) as the Mersey Commissioners shall from time to time direct.

Board to exhibit lights.

If the Board fail to comply in any respect with the provisions of the present section they shall for each night in which they so fail be liable to a penalty not exceeding twenty pounds.

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Board to contribute towards salary &c. of acting conservator and officers.

Plan of works to be submitted for approval.

21. The Board shall contribute from their funds towards the salary and expenses of the acting conservator and the officers employed in the execution of any powers and provisions of this Act such sums as shall from time to time or at any time be fixed by the Board of Trade.

22. Previously to commencing any work by this Act authorised below high-water mark of ordinary spring tides the Board shall deposit at the office of the Mersey Commissioners and at the Board of Trade plans sections and working drawings of the said work for the approval of the Mersey Commissioners or the Board of Trade such approval to be signified in writing and every such work shall be constructed only in accordance with such approval and when any such work shall have been commenced or constructed it shall not be lawful for the Board at any time to alter or extend the same without obtaining previously to making any such alteration or extension the like consent or approval And if any such work shall be commenced or completed or be altered extended or constructed contrary to the provisions of this Act it shall be lawful for the Mersey Commissioners or the Board of Trade to abate alter and remove the same and to restore the site thereof to its former condition at the cost and charge of the Board and the amount thereof shall be a debt due from the Board to the Crown and be recoverable accordingly with costs of suit or may be recovered with costs as a penalty is or may be recoverable from the Board.

Works affecting tidal waters abandoned may be removed by Mersey Commissioners or the Board of Trade.

23. If any work to be constructed by the Board under the authority of this Act in under over through or across the River Mersey or any tidal water or if any portion of any such work which affects or may affect any such water or river or access thereto shall be abandoned or suffered to fall into disuse or decay it shall be lawful for the Mersey Commissioners or the Board of Trade to abate and remove the same or any such part or parts thereof as they may at any time or times deem fit and proper and to restore the site thereof to its former condition at the cost and charge of the Board and the amount thereof shall be a debt due from the Board to the Crown and if not paid upon demand may be recovered as a debt due to the Crown with costs of suit or may be recovered with costs as a penalty is or may be recoverable from the Board.

Authorising dealings with property of the duchy of Lancaster.

24. And whereas it is expedient that this Act should contain such provisions relative to lands hereditaments estates rights and interests belonging to the Queen's most Excellent Majesty in right of Her duchy of Lancaster (in the rest of this section called "the duchy") as are herein-after contained Be it therefore enacted that—

As to the sale of lands.

(1) With respect to any lands belonging to Her Majesty in right of the duchy which may be required for the purposes of this

Act the following provisions shall have effect (that is to say) A.D. 1897.
 The chancellor and council for the time being (herein-after
 called "the chancellor and council") of the duchy may agree
 with the Board for the absolute sale in fee simple of all or any
 of the said last-mentioned lands or any part thereof in
 consideration of any such gross sum of money or of such
 annual rentcharge or in consideration partly of such gross sum
 and partly of such annual rentcharge payable by the Board and
 upon such terms and conditions in all respects as shall be
 settled between the chancellor and council and the Board and
 upon payment of such (if any) agreed gross sum and upon such
 (if any) agreed rentcharge being secured in manner herein-after
 provided the chancellor and council may grant and assure the
 same lands and the fee simple and inheritance thereof to the
 Board their successors and assigns for the purposes of this
 Act:

- (2) With respect to any gross sum of money which under this section shall become payable in consideration of any sale enfranchisement or release thereby authorised the following provisions shall have effect (that is to say):— As to the application of purchase moneys.

Each such sum shall be paid into the hands of the receiver-general of the revenues of the duchy or of his deputy or deputies and a receipt shall be given by him or them for the same;

And such sum shall be applicable and dealt with to all intents and purposes as if it were the purchase-money of lands sold by the chancellor and council under the authority of the Duchy of Lancaster Lands Act 1855 And the chancellor and council shall for the purposes of this Act have and be entitled to the benefit of all such powers and provisions in reference to moneys invested in bank annuities under this present section as under the Duchy of Lancaster Lands Act 1855 they are entitled to concerning moneys invested in bank annuities under that Act:

- (3) With respect to any annual rentcharge which under this section shall become payable in consideration of any sale enfranchisement or release by this section authorised the following provisions shall have effect (that is to say):— As to the annual rentcharges payable.

Each such annual rentcharge shall be a perpetual rentcharge and shall be such charge on the tolls or rates payable under this Act and shall be recoverable in like manner as by the Lands Clauses Acts provided concerning the rentcharges thereby authorised to be granted and shall if the chancellor and council think fit be otherwise secured

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in such manner as may be settled between the chancellor and council and the Board;

And the same shall be limited to the use of Her Majesty Her heirs and successors in right of the duchy and shall vest in Her and them in the same right as fully and effectually as the lands or hereditaments which shall be granted assured or released in consideration of the same annual rentcharge stood vested in Her and them immediately before such grant and assurance thereof;

Provided that every such annual rentcharge shall be subject to the same application to all intents and purposes as the rents and profits of the said lands or hereditaments to be granted and assured in consideration thereof would be subject if the same lands or hereditaments had not been so granted and assured;

Provided also that notwithstanding anything contained in the Railway Companies Act 1867 no money borrowed by the said Board on mortgage or bond or debenture stock under the provisions of any Act authorising the borrowing thereof shall have priority over or affect any claim of Her Majesty Her heirs or successors against the Board their successors or assigns or against their property for the time being in respect of any such last-mentioned rentcharge:

- (4) Any lands hereditaments estate right or interest conveyed or assured or released by the chancellor and council by virtue of any of the foregoing provisions of this section shall be so conveyed assured or released in the name of Her Majesty Her heirs or successors in right of the duchy and by deed or writing under the seal of the duchy and every such deed or writing shall be enrolled in the court of the duchy of Lancaster within six calendar months from the date thereof.

As to future accretions.

25. If any land acquired under the powers but not required for the purposes of this Act shall at any time after the execution of any works under the authority of this Act become raised in height or reclaimed or by any other means cease to be subject to the flow and reflow of the ordinary tides or to be permanently covered with water (and that whether gradually or imperceptibly or otherwise) the Board shall not by virtue of the ownership of any lands which they are by virtue of this Act empowered to take or acquire have any estate right or interest in or to the land so raised in height or reclaimed or ceasing to be so subject or to be so covered as aforesaid by reason that such raising reclamation or cesser has been gradual or

imperceptible or has been wholly or partially caused either by the works by this Act authorised or otherwise. A.D. 1897.

26. Nothing contained in this Act shall extend or operate to authorise the Board to take use enter upon or in any manner interfere with any land soil water or hereditaments or any manorial rights or any other rights of whatsoever description belonging to Her Majesty in right of Her duchy of Lancaster without the consent in writing of the chancellor for the time being of the said duchy first had and obtained (which consent the said chancellor is hereby authorised to give) or take away prejudice or diminish any estate right privilege power or authority vested in or enjoyed or exerciseable by Her Majesty Her heirs or successors in right of Her said duchy. Saving rights of the duchy of Lancaster.

27. Nothing contained in this Act shall authorise the Board 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 right in respect thereof belonging to the Queen's most Excellent Majesty in right of Her Crown and under the management of the Board of Trade without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give) neither shall anything in this Act contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exerciseable by the Queen's Majesty Her heirs or successors. Saving rights of the Crown in the foreshore.

28. 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. Expenses of Act.

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