



CHAPTER xlvii.

An Act to make provision as to the tolls and charges leviable by the London and North Eastern Railway Company on their canals to extend the time for the completion of certain works and for other purposes. A.D. 1935.

[10th July 1935.]

WHEREAS the tolls and charges leviable by the London and North Eastern Railway Company (in this Act referred to as "the Company") on the canals belonging to them are prescribed in the schedule to the Order of the Board of Trade confirmed by the Canal Tolls and Charges No. 1 (Canals of the Great Northern and certain other Railway Companies) Order Confirmation Act 1894 :

And whereas by directions of the Minister of Transport given in pursuance of the powers in that behalf contained in the Ministry of Transport Act 1919 the tolls and charges so prescribed were increased and the tolls and charges as so increased have been continued in force under the provisions of the Canals (Continuance of Charging Powers) Acts 1922 and 1924 and various Expiring Laws Continuance Acts until the thirty-first day of December one thousand nine hundred and thirty-five and it is expedient that permanent provision should be made with respect to such tolls and charges and that the Company should be authorised to levy on their canals and navigations tolls and charges in accordance with the provisions of this Act :

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— And whereas the main road from Lincoln to Gainsborough in the Parts of Lindsey in the county of Lincoln is carried over the Foss Dyke Navigation by means of a swing bridge and the Company's Lincoln and Gainsborough railway crosses that road on the level :

And whereas the county council of the administrative county of the Parts of Lindsey in the county of Lincoln (in this Act referred to as "the county council") are proposing to construct a new road to be carried over the said navigation and railway by means of bridges in substitution for the said swing bridge and level crossing and it is expedient that on the completion of the said new road and the works connected therewith the said swing bridge and level crossing and the roads and foot-path connected therewith should be stopped up :

And whereas it is expedient that the period now limited for the completion of certain railways by the Company should be extended as provided by this Act and that the acquisition of certain lands already acquired by the Company should be sanctioned and confirmed :

And whereas it is expedient that the Company should be empowered to apply their funds to the purposes of this Act and that the other powers in this Act mentioned should be conferred :

And whereas the purposes of this Act cannot be effected without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

Short title.

1. This Act may be cited for all purposes as the London and North Eastern Railway Act 1935.

Incorporation of Part of Act.

2. The provisions of Part II (relating to extension of time) of the Railways Clauses Act 1863 so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Act are incorporated with and form part of this Act.

3.—(1) The canals and navigations belonging to the Company to which this section applies are the following (viz.) :—

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Canal tolls
and charges.

- The Ashton Canal;
- The Borobridge and Ripon Canal;
- The Chesterfield Canal;
- The Foss Dyke Navigation;
- The Macclesfield Canal;
- The Nottingham Canal;
- The Peak Forest Canal;
- The Pocklington Canal; and
- The Witham Navigation;

and are hereinafter in this section collectively referred to as “the canals.”

(2) In this section—

“the Order” means the Order of the Board of Trade under the Railway and Canal Traffic Act 1888 confirmed by the Canal Tolls and Charges No. 1 (Canals of the Great Northern and certain other Railway Companies) Order Confirmation Act 1894;

“the Minister” means the Minister of Transport;

“authorised tolls” means the tolls and charges which the Company are for the time being authorised to levy in pursuance of this Act in respect of the canals.

(3) On and after the first day of January one thousand nine hundred and thirty-six and unless and until the tolls and charges are revised by the Minister under this section the tolls and charges leviable by the Company in respect of the canals shall be the maximum tolls and charges and the minimum tolls and charges and the empty boat charges specified in the schedule to the Order increased by an amount equal to sixty per centum of the respective amounts thereof authorised by the Order and the Order shall be read and have effect accordingly :

Provided that if any increased toll or charge made in pursuance of this section includes a fraction of one penny the fraction if less than one halfpenny shall not be charged or if the fraction amounts to one halfpenny but is less than one penny it shall be charged as one penny.

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(4) As from the thirty-first day of December one thousand nine hundred and thirty-five the directions of the Minister given in September one thousand nine hundred and twenty in pursuance of section 3 of the Ministry of Transport Act 1919 with respect to the canals shall cease to have effect.

(5) If it is represented by application in writing to the Minister—

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

(b) by the Company;

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

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

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

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

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

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

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Provided also that in cases where no objection has been made to the application or where any objection which has been made has either been withdrawn or appears to the Minister to be of a trivial nature the Minister may if he thinks fit dispense with such inquiry.

4. As from such date as the Minister of Transport shall certify that the new road to be constructed by the county council over the Foss Dyke Navigation and the Lincoln and Gainsborough railway of the Company at Saxilby in the parish of Saxilby-with-Ingleby in the rural district of Welton in the Parts of Lindsey in the county of Lincoln has become available for public traffic the Company may remove the swing bridge carrying the existing Lincoln and Gainsborough road over the Foss Dyke Navigation and may stop up so much of the said existing Lincoln and Gainsborough road where crossed on the level by the Company's Lincoln and Gainsborough railway as lies between the Company's fences and thereupon all public rights of way in over or along the following roads and footpath shall be extinguished (that is to say):—

Stopping up
of roads &c.
at Saxilby.

- (a) So much of the existing Lincoln and Gainsborough road as lies between the junction of the said road with Bridge Street and a point one chain or thereabouts south-west of the level crossing of the Company's Lincoln and Gainsborough railway over the said road ;
- (b) So much of Skellingthorpe Road as lies between the junction of that road with the Lincoln and Gainsborough road and a point nine chains or thereabouts east of the said junction ;
- (c) So much of the public footpath leading from Skellingthorpe Road to Broadholme as lies between the junction of the said footpath with Skellingthorpe Road and a point four chains or thereabouts south thereof.

5. From and after the passing of this Act all public rights of way now existing over or upon the bridge and the approaches thereto carrying the public footpath

As to bridge
over railway
at Cantley.

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Extension of time for completion of certain works.

6. The period now limited by the London and North Eastern Railway (Works) Act 1930 for the completion of railways Nos. 2 3 4 5 and 6 by that Act authorised and for the completion of deviation railways Nos. 1 and 2 at Wood Green authorised by the Great Northern Railway Act 1914 is hereby extended until the first day of October one thousand nine hundred and forty and the said Act of 1930 shall be read and construed as if the period limited by this section for the completion of the works had been the period limited by the said Act for the completion thereof respectively.

Confirmation of purchase of lands by Company.

7. The Company may hold use and appropriate for the purposes of their undertaking the following lands and properties in the county of Durham which have already been acquired by them and the expenditure of money by the Company in or about the purchase or acquisition thereof or the works executed thereon is hereby sanctioned and confirmed (that is to say) :—

- (a) Lands in the urban district of Washington adjoining and on both sides of the Company's Pontop and South Shields railway and bounded on the east by the river Wear;
- (b) Lands in the borough of Gateshead on the west side of and adjoining the Company's Dunston extension railway and lying between that railway and the river Team.

Amendment of section 71 of Act of 1924.

8. Section 71 (Powers as to building on or over lands) of the London and North Eastern Railway Act 1924 shall be read and have effect as if the words "buildings of any description" had been inserted therein in lieu of the words "houses shops chambers flats offices or any other similar buildings."

Power to hold or sell or otherwise dispose of lands.

9.—(1) The Company shall have power and shall be deemed always to have had power on such terms and conditions as they think fit to sell exchange lease mortgage or otherwise dispose of any land vested in the Company or

hereafter acquired by the Company under the powers of this or any previous Act which is not at the time of such sale or other disposition being used for the purposes of the Company's undertaking whether or not such land has been previously so used or to retain hold and use such land. A.D. 1935.

(2) On any sale or other disposition by the Company under this section the other party thereto shall not be concerned or entitled to inquire whether or not the land is or is not being used for the purposes of the Company's undertaking.

(3) Sections 127 to 131 (inclusive) of the Lands Clauses Consolidation Act 1845 shall not apply to any land which is now vested in the Company or is hereafter acquired by the Company under the powers of this or any previous Act.

(4) The net proceeds arising on the sale of any land under this section shall be applied only to purposes to which capital is properly applicable.

(5) The provisions of this section shall extend and apply to the Company and any other company in respect of land vested in them jointly and to any joint committee incorporated or constituted by Act of Parliament on which the Company may be represented in respect of land vested in such joint committee.

(6) Section 43 (Power to Company and others to lease &c. lands) of the London and North Eastern Railway Act 1923 so far as it relates to England is hereby repealed.

10. The provisions of section 71 of the London and North Eastern Railway Act 1924 (which authorises the building &c. on and over lands acquired or held by the Company under the powers of that Act or any previous Act) as amended by this Act shall extend and apply to any lands or premises by this Act authorised to be held and used by the Company. Application of section 71 of Act of 1924.

11. The Company may appropriate and apply to all or any of the purposes or objects of this Act being purposes to which capital is properly applicable any of the moneys which they have raised or are authorised to raise and which may not be required for any purpose to which they are made specially applicable. Power to Company to apply funds.

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Provision as
to general
Railway
Acts.

12. Nothing in this Act contained shall exempt the Company or their railway from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies passed before or after the passing of this Act 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 to be taken by the Company.

Costs of Act.

13. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

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