CHAPTER xci.

An Act to authorise the closing and stopping up of certain public roads in the borough of Dover to sanction and confirm the construction of a railway and for other purposes. A.D. 1928.

[3rd August 1928.]

WHEREAS the Dover Harbour Board (in this Act referred to as "the Harbour Board") are constituted incorporated and empowered for the purpose of maintaining and improving Dover Harbour by the Harbours and Passing Tolls &c. Act 1861 in conjunction with the Dover Harbour Act 1828 the Dover Harbour Act 1871 the Dover Harbour Act 1873 the Dover Harbour Act 1891 the Dover Harbour Act 1898 the Dover Harbour Act 1901 the Dover Harbour Act 1902 the Dover Harbour Board Act 1906 the Dover Harbour (Works &c.) Act 1906 the Dover Harbour Act 1913 the Dover Harbour Act 1919 the Dover Harbour Act 1920 the Dover Harbour Act 1923 and the Dover Harbour Act 1926 (which fifteen Acts are in this Act collectively referred to as "the former Harbour Acts"):

And whereas it would be of great local and public advantage if the Harbour Board were authorised to stop up and extinguish all rights of way over the road known as Commercial Quay and the portion hereinafter referred to of the road known as Strond Street and the passages paths and ways into the said road Commercial Quay from the road known as Snargate Street and to construct

A.D. 1928. a new road from the said Snargate Street to a road known as Union Street in the parish of Dover in the county of Kent and it is expedient that provision be made accordingly:

And whereas it is expedient that the construction execution maintenance and user by the Harbour Board of the existing railway hereinafter described should be sanctioned and confirmed and that the Harbour Board should be authorised to continue the said railway and to work maintain repair and renew the same:

And whereas it is expedient that such other powers should be conferred upon the Harbour Board and that such other provisions should be made as in this Act are more particularly described:

And whereas plans and sections showing the situations lines and levels of the works authorised and sanctioned and confirmed by this Act and of the lands and other property required for the purposes of this Act and also a book of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands and other property to be taken or used compulsorily for the purposes of this Act and also an Ordnance map with the line of railway delineated thereon so as to show its general course and direction were duly deposited with the clerk of the peace for the county of Kent and are hereinafter referred to as the deposited plans sections book of reference and map:

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:—

Short title.

1. This Act may be cited as the Dover Harbour Act 1928.

Incorporation of Acts.

2. The Railways Clauses Consolidation Act 1845 (except the provisions thereof relating to the temporary occupation of lands near the railway during the construction thereof) is except where varied by or inconsistent with this Act or the former Harbour Acts incorporated

with and forms part of this Act Provided that nothing in the said Act of 1845 or this Act shall constitute the Harbour Board a railway company within the meaning of the Railway and Canal Traffic Act 1888 or any Act amending or enlarging that Act.

Interpretation.

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

Power to stop up roads.

4. The Harbour Board may stop up the road known as Commercial Quay and the portion of the road known as Strond Street from the north-eastern end of Commercial Quay to the junction of Commercial Quay with Strond Street and from the said junction to a line drawn from George Corner across and at right angles to Strond Street and all passages paths and ways leading thereinto from Snargate Street and thereupon all rights of way over the said road and portion of road and over the said passages paths and ways shall be extinguished and the fee simple and inheritance of the said road and portion of road and the said passages paths and ways shall be absolutely vested in the Harbour Board for the purposes of their undertaking and shall for all purposes be part of Dover Harbour within the meaning of the former Harbour Acts and this Act Provided that—

(1) The said road and portion of road and the said passages paths and ways shall not be stopped up unless the Harbour Board are in possession of all houses and lands on both sides thereof except so far as the owners lessees and occupiers of those houses and lands may otherwise agree;

(2) The Harbour Board shall make full compensation to all parties interested in respect of any private rights of way extinguished by virtue of this section and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

Power to make new road.

5. Subject to the provisions of this Act the Harbour Board may in the parish of Dover in the county of Kent and in the lines and situations and upon the lands shown

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and delineated on the deposited plans make and maintain the following work shown on the deposited plans (that is to say) :—

A new road commencing at the north-western end of Union Street and forming a junction therewith and running in a north-westerly direction to and terminating at and forming a junction with Snargate Street.

Power to divert sewers &c.

6. Subject to the provisions of this Act the Harbour Board may take up and remove or cause to be taken up and removed from the road and portion of road and the passages paths and ways by this Act authorised to be stopped up all or any sewers drains water mains electric mains telegraphic and telephonic wires gas mains standards lamps tramway poles overhead wires pipes and other apparatus and may divert the same to and refix the same in under or over the new road by this Act authorised or Snargate Street.

For protection of Dover Gas Company.

7. For the protection of the Dover Gas Company the provisions of section 8 (For protection of Dover Gas Company) of the Dover Harbour Act 1913 shall apply and have effect as if they were re-enacted in this Act.

For protection of Dover Corporation.

8. Notwithstanding anything contained in this Act or shown upon the deposited plans and sections the following provisions for the protection and benefit of the mayor aldermen and burgesses of the borough of Dover (in this Act referred to as "the corporation") shall in addition to any other provisions enuring for the protection of the corporation and except so far as may be otherwise agreed in writing between the Harbour Board and the corporation apply and have effect in relation to the exercise of the powers conferred upon the Harbour Board by this Act (that is to say) :—

(1) The new road which the Harbour Board are authorised to make and maintain by the section of this Act of which the marginal note is "Power to make new road" shall be constructed by the Harbour Board in such position upon the lands delineated on the deposited plans as the corporation may reasonably approve and shall also be constructed in accordance with plans sections working drawings and specifications to be submitted to and reasonably approved by the cor-

poration and also under the superintendence of the corporation if they see fit to attend for that purpose:

(2) Not less than twenty-eight days before commencing the construction of the said new road the Harbour Board shall deliver to the corporation for their approval plans sections working drawings and specifications of the said new road and the Harbour Board shall not commence such construction before such plans sections working drawings and specifications shall have been approved in writing by the corporation or (if such approval be not given within a period of twenty-one days after such delivery) determined by arbitration as hereinafter provided:

(3) The surveyor of the corporation and any person authorised by him in writing shall at all times have free access to the new road during the construction thereof and all reasonable facilities shall be afforded to him by the Harbour Board for the inspection thereof and after such construction the said new road shall be maintained by the Harbour Board to the reasonable approval in all things of the corporation:

(4) The construction of the said new road shall be completed by the Harbour Board to the reasonable satisfaction of the corporation and such road shall be opened for public use before the Harbour Board carry into execution any of the powers conferred upon them by the section of this Act of which the marginal note is "Power to stop up roads" and before exercising any of the powers of that section the Harbour Board shall also to the reasonable approval of the corporation (except to the extent to which the corporation consent in writing to their omitting so to do) construct in suitable positions in Snargate Street or in such other position as may be approved by the corporation new sewers drains water mains electricity mains apparatus cables standards lamps tramway poles overhead wires pipes or other works (hereinafter referred to as "new works") in lieu of any existing

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sewers drains water mains electricity mains apparatus cables standards lamps tramway poles overhead wires pipes or other works (hereinafter referred to as "existing works") belonging to the corporation which are situate in or under Commercial Quay or the portion of Strond Street which is referred to in the said section or any of the passages paths and ways which are also referred to therein and the Harbour Board shall to the satisfaction of the corporation before they alter interfere with or disturb any of such existing works comply with the requirements of this subsection and shall also connect up the new works with the works of the corporation from which the existing works are proposed to be severed and in such manner that the service afforded by such works is not interfered with:

(5) Before exercising the powers of the section of this Act of which the marginal note is "Power to stop up roads" the Harbour Board shall remove all buildings from the land coloured pink upon the plan signed in duplicate by Reginald Edward Knocker on behalf of the corporation and by Rutley Mowll on behalf of the Harbour Board and shall convey such land to the corporation free of cost and the powers of the said section shall not be exercised by the Harbour Board for a period of six months after such land has been conveyed to the corporation or such longer period as may reasonably be required for widening Snargate Street and for carrying out the works connected therewith or preliminary thereto:

(6) Before the Harbour Board commence to exercise any of the powers conferred upon them by this Act (except the powers of the section of this Act of which the marginal note is "Power to make new road") they shall pay to the corporation the sum of seven thousand pounds in settlement of all claims by the corporation upon the Harbour Board arising under the provisions of this Act except in so far as is expressly provided by this Act:

(7) All paving materials existing in or upon Commercial Quay and the part of Strond Street to be closed under this Act at the date of this Act shall continue to be the property of the corporation and the corporation may remove such paving materials from Commercial Quay and the said part of Strond Street and may use the same for such purposes as they may determine:

(8) Any wall or fence which the Harbour Board may erect along the northern boundary of the lands lying between Commercial Quay and Snargate Street shall not exceed six feet in height:

(9) The provisions of subsections (6) (7) and (8) of section 17 (For protection of Dover Corporation) of the Dover Harbour Act 1923 shall apply and have effect (so far as the same are applicable) for the protection and benefit of the corporation as if the said subsections were with any necessary modifications set out in this section:

(10) Any difference which may arise between the Harbour Board and the corporation under the provisions of this section or as to anything to be done or not to be done thereunder shall be determined by the arbitration of a single arbitrator to be appointed by the Minister of Transport on the application of either party after notice in writing to the other and subject as aforesaid the provisions of the Arbitration Act 1889 shall apply to any such arbitration.

For protection of Southern Railway Company.

9. For the protection of the Southern Railway Company (in this section referred to as "the company") the following provisions shall unless otherwise agreed in writing between the company and the Harbour Board and whether before or after the passing of this Act have effect (that is to say):—

(1) The company may run over and use toll free with their engines carriages wagons and servants whether in charge of engines carriages and wagons or not for all purposes connected with their undertaking the railway referred to in the section of this Act of which the marginal note is "Con- "firming and sanctioning construction of railway

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"by Harbour Board" and (so far as the Harbour Board can lawfully authorise or empower the company in this behalf) the railways and sidings belonging to or in the occupation of the Harbour Board situate between the termination of Railway No. 2 referred to in the Dover Harbour Act 1923 and the seaward extremity of the eastern arm of Dover Harbour Provided that nothing in this section shall prevent the Harbour Board from imposing a toll or making a charge for haulage over the said railways and sidings on others than the company:

(2) Before the Harbour Board incur any expenditure on capital or revenue account in the exercise of the powers of this Act the Harbour Board shall (notwithstanding anything contained in this Act) submit estimates of such expenditure to the company and no such expenditure shall be incurred until the company have approved such estimates and such approval may be given subject to such modifications thereof or alterations therein as the company may think fit.

For protection of Postmaster-General.

10.—(1) The Board shall not take up and remove or cause to be taken up and removed or otherwise interfere with any telegraphic line belonging to or used by the Postmaster-General except in accordance with and subject to the provisions of the Telegraph Act 1878.

(2) Notwithstanding the stopping up of the said road and portion of road and the said passages paths and ways the Postmaster-General may if he so desires (without derogation from any other right vested in him) remove therefrom any telegraphic line which is in under upon along over or across the same and any Post Office letter box and the Board shall pay to the Postmaster-General the expenses incurred by him of and incidental to the removal of such telegraphic line or of any telegraphic line connected therewith which in consequence will be rendered useless and of such letter box and the substitution of a telegraphic line or letter box (as the case may be) in such other place as the Postmaster-General may require.

(3) "Telegraphic line" in this section has the same meaning as in the Telegraph Act 1878.

Period for completion of works.

11. If the works to be made under the powers of this Act are not completed within five years from the passing of this Act then on the expiration of that period the powers by this Act given for the making thereof or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Confirming and sanctioning construction of railway by Harbour Board.

12.—(1) The construction maintenance and user by the Harbour Board of the existing works in this section described and the expenditure of money by the Harbour Board for and in connection with the same are hereby sanctioned and confirmed and such works shall subject to the provisions of this Act be deemed to have been constructed maintained and used and such expenditure to have been made under and within the powers of the former Harbour Acts and such works shall be deemed to be and to have been since the date of the construction thereof for all purposes part of Dover harbour within the meaning of the former Harbour Acts and this Act and the Harbour Board may continue to use maintain repair and renew such works The existing works by this section sanctioned and confirmed and authorised to be used maintained repaired and renewed by the Harbour Board are the following (that is to say) :—

A railway commencing by a junction with a railway (Railway No. 1) authorised by section 12 (Confirming and sanctioning construction of railway by Harbour Board) of the Dover Harbour Act 1923 at a point distant eighteen feet or thereabouts from the north-east corner of the Esplanade Hotel measured in a north-easterly direction and terminating at the north-eastern end of North Wall Quay.

(2) Nothing in this section shall prejudice or affect the operation of the agreement dated the fifth day of May nineteen hundred and twenty-seven and made between the Harbour Board of the one part and the corporation of the other part and the said agreement shall continue to apply to and in respect of the railway referred to in this section and the maintenance and user of such railway.

Application of funds.

13. Subject to the provisions of the agreement made between the South Eastern Railway Company the London Chatham and Dover Railway Company and the South

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Eastern and Chatham Railway Companies Managing Committee of the one part and the Harbour Board of the other part dated the first day of June one thousand nine hundred and six and set out in the Second Schedule to and confirmed by the Dover Harbour (Works &c.) Act 1906 the Harbour Board may apply to the purposes of this Act any moneys which they now have in their hands or which they have power to raise by virtue of any Acts relating to the Harbour Board and which may not be required for the purposes to which they are by any such Act made specially applicable.

Power to make contracts &c.

14. The Harbour Board may from time to time with any Government department the Southern Railway Company the Dover Corporation or any other person enter into and carry into effect and vary or rescind contracts agreements and arrangements or confirm and make binding on the parties thereto any agreements or contracts which have been entered into prior to the passing of this Act with respect to the construction tenure and user by them or any or either of them of the works and railway authorised and sanctioned by this Act or with respect to the user of Dover Harbour or any part thereof or with respect to the application by the Harbour Board of the revenues of Dover Harbour or any part thereof or in relation to the tolls rates dues and taxes levied or to be levied or chargeable therein and in and upon the works and railway authorised by this Act or any parts thereof or with respect to any compensation therefor Provided that no such contract agreement or arrangement shall prejudice or affect the rights or interests of persons other than the parties thereto without the consent in writing of such persons.

Crown rights.

15. Nothing in this Act affects prejudicially any estate right power privilege or exemption of the Crown.

Costs of Act.

16. 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 Harbour Board.

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