



CHAPTER xxxix

An Act to empower the British Transport Commission to construct works and to acquire lands to revive the powers and extend the time for the construction of certain works to confer further powers on the Commission and for other purposes.

[1st August 1951.]

WHEREAS by the Transport Act 1947 (in this Act referred to as "the Act of 1947") the British Transport Commission (in this Act referred to as "the Commission") were established:

And whereas it is the duty of the Commission (inter alia) so to exercise their powers under the Act of 1947 as to provide or secure or promote the provision of an efficient adequate economical and properly integrated system of public inland transport and port facilities within Great Britain for passengers and goods and for that purpose to take such steps as they consider necessary for extending and improving the transport and port facilities within Great Britain in such manner as to provide most efficiently and conveniently for the needs of the public agriculture commerce and industry:

And whereas it is expedient that the Commission should be empowered to construct the works authorised by this Act and to acquire the lands referred to in this Act:

And whereas it is expedient that the powers of the Commission for the construction of certain works should be revived and extended as provided by this Act:

And whereas it is expedient that the other powers in this Act contained should be conferred upon the Commission and that the other provisions in this Act contained should be enacted:

And whereas plans and sections showing the lines or situations and levels of the works to be constructed under the powers of this Act and plans of the lands authorised to be acquired by this Act and 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 said lands were duly deposited with the clerks of the county councils of the several counties and the town clerks of the county boroughs within which the said works will be constructed or the said lands are situated which plans sections and book of reference are respectively referred to in this Act as the deposited plans the deposited sections and the deposited 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 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 :—

PART I

PRELIMINARY

Short and collective titles.

1.—(1) This Act may be cited as the British Transport Commission Act 1951.

(2) The British Transport Commission Acts 1947 to 1950 and this Act may be cited together as the British Transport Commission Acts 1947 to 1951.

Division of Act into Parts.

2. This Act is divided into Parts as follows :—

Part I.—Preliminary.

Part II.—Works.

Part III.—Lands.

Part IV.—Protective provisions.

Part V.—Miscellaneous.

Interpretation.

3.—(1) In this Act unless there be something in the subject or context repugnant to such construction the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have in relation to the relative subject matter the same respective meanings And—

12 & 13 Geo. 6.
c. xxix.

“ the Act of 1949 ” means the British Transport Commission Act 1949 ;

14 Geo. 6.
c. liii.

“ the Act of 1950 ” means the British Transport Commission Act 1950 ;

“ the Commission ” means the British Transport Commission and any reference to the Commission in relation to any functions of the Commission which are for the

time being delegated to an executive in pursuance of section 5 of the Act of 1947 shall be construed as a reference to that executive ;

“ enactment ” includes any public general local or private Act and any order or other instrument having the force of an Act ;

“ the Lands Clauses Acts ” means the Lands Clauses Acts as modified by the Acquisition of Land (Assessment of Compensation) Act 1919 the Town and Country Planning Act 1947 the Lands Tribunal Act 1949 and this Act ;

“ the limits of deviation ” means the limits of deviation shown on the deposited plans ;

“ the new works ” means the works described in section 5 (Power to make works) of this Act ;

“ the tribunal ” means the Lands Tribunal ;

“ the works ” means the works authorised by Part II (Works) of this Act and includes the new works.

(2) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied extended amended or varied by or by virtue of any subsequent enactment including this Act.

(3) All distances and lengths stated in any description of works powers or lands shall be read and have effect as if the words “ or thereabouts ” were inserted after each such distance and length.

4. The following Acts and parts of Acts so far as the same are applicable for the purposes and are not inconsistent with or varied by the provisions of this Act are incorporated with and form part of this Act and this Act shall be deemed to be the special Act for the purposes of the said incorporated enactments :—

The Lands Clauses Acts except sections 127 to 133 of the Lands Clauses Consolidation Act 1845 ;

8 & 9 Vict.
c. 18.

The Railways Clauses Consolidation Act 1845 except sections 7 8 and 9 thereof ;

8 & 9 Vict.
c. 20.

Part I (relating to construction of a railway) of the Railways Clauses Act 1863 :

26 & 27 Vict.
c. 92.

Provided that for the purposes of this Act the expression “ the railway ” where used in the incorporated provisions of the Railways Clauses Consolidation Act 1845 and the Railways Clauses Act 1863 means the new works and the expression “ the company ” where used in the said provisions means the Commission.

PART II

WORKS

Power to
make works.

5. Subject to the provisions of this Act the Commission may in the lines or situations shown on the deposited plans and according to the levels shown on the deposited sections make and maintain the new works hereinafter described with all necessary works and conveniences connected therewith:—

In the county of London—

(Cable
subway at
Oxford Circus
station).

Work No. 1 A cable subway (48 yards in length) in the city of Westminster commencing by a junction with the northbound running tunnel of the Bakerloo railway and terminating by a junction with a disused lift shaft at Oxford Circus station:

In the city and county borough of Nottingham—

(Widening at
Radford).

Work No. 2 A widening (300 yards in length) of the railway between Radford and Nottingham commencing at a point 165 yards north-west of the bridge carrying the said railway over the river Leen and terminating at a point 135 yards south-east of the said bridge:

(Bridge
widening at
Radford).

Work No. 3 A widening on the south-west and north-east sides thereof respectively of the bridge carrying the railway between Radford and Nottingham over Sherwin Road:

In the county borough of Southend-on-Sea—

(Bridge
reconstructions
at Southend-
on-Sea).

Work No. 5 A reconstruction and lengthening of the bridge carrying Ness Road (described on the deposited plans as "North Shoebury Road") over the railway between Southend and Shoeburyness and an alteration of the level of Ness Road:

Work No. 6 A reconstruction and lengthening of the bridge carrying Elm Road over the railway between Southend and Shoeburyness:

In the county of West Sussex—

(Subway at
Worthing).

Work No. 7 A subway for foot passengers (67 yards in length) in the borough of Worthing under the railway between Worthing and Littlehampton commencing at a point on the west side of Limbrick Lane 30 yards south of the gates on the south side of the existing level crossing whereby Limbrick Lane is crossed on the level by the said railway and terminating at a point on the west side of Limbrick Lane 25 yards north of the gates on the north side of the said level crossing:

In the city and county borough of Manchester—

PART II

—cont.

Work No. 8 A widening (100 yards in length) of the railway between Manchester Exchange and Manchester Victoria stations commencing at the north-east end of the bridge carrying the said railway over the river Irwell and terminating at a point 100 yards north-east of the said bridge: (Widening at Manchester).

In the county borough of Walsall—

Work No. 9 A lengthening of the bridge carrying Wednesbury Road over the railway between Walsall and Wolverhampton: (Lengthening of bridge at Walsall).

In the county of Southampton—

Work No. 10 A bridge and approaches (727 yards in length) across Langston Harbour in the urban district of Havant and Waterloo commencing at the toll gate at the north end of the causeway leading to Hayling Bridge on the north side of Langston Harbour and terminating at the junction of Havant Road with the causeway leading to Hayling Bridge on the south side of Langston Harbour. (Bridge at Langston Harbour).

6.—(1) The Commission shall in constructing the new bridge provide for the accommodation of telegraphic lines of the Postmaster-General either a space eighteen inches wide by six inches deep or a space of equivalent content to such last-mentioned space in one of the footways of the bridge. The accommodation shall be provided in accordance with plans sections and particulars to be previously submitted to and reasonably approved by the Postmaster-General. Provision of accommodation for Post Office telegraphic lines.

(2) If within one month of the receipt of the said plans sections and particulars the Postmaster-General shall not have intimated to the Commission his disapproval thereof or made any requirement with respect thereto he shall be deemed to have approved the same.

(3) The Postmaster-General may if he so desires (without derogation from any other right vested in him) remove from the old bridge any telegraphic line belonging to him which is attached thereto and the Commission shall pay to the Postmaster-General the expenses incurred by him of and incidental to the removal of such telegraphic line and of any telegraphic line connected therewith which in consequence will be rendered useless and the substitution of a telegraphic line in the new bridge in the space to be provided in accordance with subsection (1) of this section.

(4) In this section the expressions "the new bridge" and "the old bridge" have the meanings respectively assigned to them

PART II

—cont.

41 & 42 Vict.
c. 76.As to
dimensions
of bridge.Power to
enter into
agreements
with Worthing
Corporation.As to new
bridge at
Langston
Harbour.14 & 15 Vict.
c. lxxviii.

by section 9 (As to new bridge at Langston Harbour) of this Act and the expression "telegraphic line" has the same meaning as in the Telegraph Act 1878.

7. So much of Work No. 10 authorised by this Act as consists of a bridge may be constructed as a fixed bridge provided that the openings thereof are constructed with a clear span of not less than twenty-nine feet and a clear headway above the level of high water at ordinary spring tides not less than the headway shown in respect of each such opening on the deposited sections.

8.—(1) The Commission and the mayor aldermen and burgesses of the borough of Worthing (in this section referred to as "the corporation") may enter into and carry into effect agreements with regard to the construction maintenance and renewal of Work No. 7 authorised by this Act and the acquisition of lands therefor and the defraying or making of contributions towards the cost of such construction maintenance renewal and acquisition and with regard to any other matters relating thereto.

(2) The corporation may subject to and in accordance with the provisions of this Act and the terms of any such agreement exercise the powers of this Act with respect to the execution of the said Work No. 7 and without prejudice to the generality of the foregoing provisions of this section the provisions of section 36 (For protection of South Eastern Gas Board) of this Act shall mutatis mutandis extend and apply to the corporation as if they were mentioned therein instead of the Commission.

(3) Any expenses incurred by the corporation for the purposes of this section shall be deemed to be expenses incurred by them in the execution of their powers as a highway authority.

9.—(1) In this section—

"the Act of 1823" means the Act 4 George 4. chapter ix intituled "An Act for building a bridge and making a causeway from Langstone in the parish of Havant in the county of Southampton to Hayling Island in the parish of Hayling North in the said county at or near a certain house there called the Ferry House and for forming and making proper roads approaches or avenues thereto";

"the Act of 1851" means the Hayling Bridge and Causeway (Railway to Havant) Act 1851;

"the new bridge" means Work No. 10 authorised by this Act;

"the old bridge" means the bridge and causeway authorised by the Act of 1823.

(2) The Commission may in connection with the construction of the new bridge or the maintenance or renewal thereof from time to time construct place and maintain in Langston Harbour and the banks bed and foreshore thereof all such temporary piles fenders booms dolphins pontoons caissons stagings cofferdams embankments piers abutments wharves walls fences drains stairs buildings and other works and conveniences as they may deem expedient or necessary.

(3) The Commission may upon the completion and opening for public use of the new bridge stop up and discontinue so much of the road on the old bridge and on the approaches thereto as may be rendered unnecessary by the construction of the new bridge and thereupon all rights of way over or along the portion of road so stopped up and discontinued shall be extinguished.

(4) As from the completion and opening for public use of the new bridge—

(a) the provisions of section 30 (Provision against danger to navigation) of this Act and of section 18 of the Railways Clauses Act 1863 as incorporated with this Act shall apply and have effect with respect to the old bridge as if the old bridge were a work authorised by this Act; and

(b) the provisions of the Acts of 1823 and 1851 with respect to the old bridge shall so far as the same are applicable and are still in force and are not inconsistent with the provisions of this Act apply and have effect with respect to the new bridge and shall cease to apply to the old bridge:

Provided that for the purposes of such application—

(i) Section XV (Weights allowed to be carried over bridge limited) and section XVII (Toll keeper may weigh carriages &c.) of the Act of 1851 shall have effect as if the words “twelve tons” were substituted for the words “three tons” wherever those words occur; and

(ii) Section LXXXIV (Saving the rights of the proprietors of the Portsmouth and Arundel Navigation) of the Act of 1823 and section XXVIII (Company not to obstruct passage through swing bridge) of the Act of 1851 shall not apply or have effect with respect to the new bridge or to anything done by the Commission under the powers of this Act.

10.—(1) The Commission and the county council of the administrative county of Southampton may enter into and carry into effect agreements with regard to the construction maintenance and renewal of Work No. 10 authorised by this Act and the acquisition of lands therefor and the defraying or making of

Power to enter into agreements with Southampton County Council.

PART II
—cont.

contributions towards the cost of such construction maintenance renewal and acquisition and with regard to any other matters relating thereto.

(2) The said county council may subject to and in accordance with the terms of any such agreement exercise the powers of this Act with respect to the execution of the said Work No. 10.

(3) Any expenses incurred by the said county council for the purposes of this section shall be deemed to be expenses incurred by them in the execution of their powers as a highway authority.

Power to
divert
footpath at
Barking.

11. Subject to the provisions of this Act the Commission may stop up and discontinue the portion of the footpath in the borough of Barking in the county of Essex known as Saint Awdry's Walk between the points marked "A" and "B" on the deposited plans and may substitute therefor a new footpath between the points marked "C" and "D" on the deposited plans.

Abolition of
rights of way
over certain
level crossings.

12.—(1) As from the passing of this Act—

(a) all rights of way over the level crossings referred to in Part I of the First Schedule to this Act; and

(b) all rights of way over the level crossings referred to in Part II of the said schedule other than a right of way for all persons to use those level crossings on foot;

shall subject to the provisions of this section be extinguished and the provisions of the Highway (Railway Crossings) Act 1839 of section 9 of the Railway Regulation Act 1842 of section 47 of the Railways Clauses Consolidation Act 1845 and of sections 5 6 and 7 of the Railways Clauses Act 1863 and any other provisions to the same or similar effect incorporated with or contained in any enactment relating to any of the level crossings referred to in Parts I and II of the said schedule shall cease to apply to those level crossings.

2 & 3 Vict.
c. 45.
5 & 6 Vict.
c. 55.

(2) The enactments referred to in the first and second columns of Part III of the said schedule are hereby repealed (subject to the provisions of subsection (6) of this section) to the extent specified in the third column of the said schedule.

(3) The Commission shall provide and maintain for the convenience of persons on foot wicket gates on both sides of the railway at each of the level crossings referred to in Part II of the said schedule.

(4) The level crossings referred to in Part IV of the said schedule shall be deemed for all purposes to be works provided by the Commission at the date of the passing of this Act pursuant to section 68 of the Railways Clauses Consolidation Act 1845 for the accommodation of the owners and occupiers of the lands adjoining the railway at each of the said level crossings

respectively (that is to say) for the purpose of making good any interruptions caused by such railway to the use of the lands through which the same has been made as if the making of such railway had been authorised by this Act.

(5) For the purposes of paragraphs (8) and (10) of section 27 (For protection of gas and water undertakers) of the Act of 1950 as incorporated with this Act the extinguishment of rights of way over any level crossing referred to in the First Schedule to this Act shall be deemed to be the stopping up of a street under the powers of this Act.

(6) The provisions of subsection (1) of this section so far as the same relate to the level crossing known as Limbrick Lane level crossing in the borough of Worthing and the provisions of subsection (2) of this section so far as the same relate to section CCLXXIV of the Act 7 & 8 Vict. chapter lxxvii shall not have effect until Work No. 7 authorised by this Act shall have been completed and opened for public use.

13. The Commission may with the consent of the urban district council of Teignmouth close to vehicular traffic and with the like consent may stop up and discontinue all or any of the roads on the bridges carrying Willow Street Mulberry Street Chapel Street and Saxe Street over the Commission's railway in the urban district of Teignmouth and they may remove any of the said bridges the road upon which has been stopped up and discontinued under the powers of this section.

As to
bridges at
Teignmouth.

14.—(1) If at any time the Commission require to reconstruct the bridge carrying the railway from Waterloo station to Clapham Junction over Ravenet Street in the metropolitan borough of Battersea in the county of London they may notwithstanding anything in any enactment relating to the said bridge reconstruct the same as an archway with such span and headway as they may think fit subject to the provisions of the next succeeding subsection and they may appropriate and use for that purpose and without making any payment therefor so much of the soil and surface of the portion of Ravenet Street under the said bridge as they may require.

As to recon-
struction of
bridge over
Ravenet Street
Battersea.

(2) The said bridge if reconstructed as aforesaid shall (except as otherwise agreed in writing between the Commission and the mayor aldermen and councillors of the metropolitan borough of Battersea) have a clear span between the side walls of not less than twenty-six feet and a clear headway of not less than eight feet six inches and so much of the said portion of Ravenet Street as shall not be appropriated and used by the Commission for the purpose of reconstructing the said bridge as aforesaid shall remain open as a right of way for persons on foot.

PART II
—cont.

As to retention of telephone apparatus on abandonment of tramways etc.

23 & 24 Geo. 5.
c. 14.

14 Geo. 6.
c. 39.

15.—(1) In this section—

“ the Act of 1933 ” means the London Passenger Transport Act 1933 ;

“ highway authority ” where used in relation to any road vested in or repairable by the London County Council means the London County Council ;

“ prescribed areas ” means the areas referred to in the Second Schedule to this Act ;

“ retained apparatus ” means any telephone apparatus retained by the Commission under the powers of this section ;

“ the Street Works Act ” means the Public Utilities Street Works Act 1950 ;

“ telephone apparatus ” means telephone wires posts poles brackets ducts boxes and any other apparatus necessary or convenient for the purposes of telephonic communication but does not include any such wires posts poles brackets ducts boxes or apparatus belonging to the Postmaster-General ;

and any reference to a tramway or trolley vehicle route abandoned under the powers of section 23 (Power to abandon tramway systems) of the Act of 1933 includes a reference to part of a tramway or trolley vehicle route so abandoned.

(2) Notwithstanding anything in section 23 of the Act of 1933 the Commission may upon the abandonment of any tramway or trolley vehicle route under the powers of the said section 23 retain and use for the purposes of their road passenger transport services and such other purposes of their undertaking as may be approved by the highway authority (which approval shall not be unreasonably withheld) any telephone apparatus already provided for working such tramway or trolley vehicle route and they shall not be required nor shall any highway authority be entitled to take up remove or dispose of any such telephone apparatus :

Provided that except with the consent of the highway authority no posts or poles shall be retained under the powers of this section for a longer period than twelve months after the date upon which any such abandonment as aforesaid takes effect.

(3) Subject to the provisions of this Act and of the Street Works Act the Commission may from time to time within the prescribed areas adapt and alter the retained apparatus in such manner as they may think fit and may provide such extensions thereof within the prescribed areas as may be necessary or convenient for enabling the retained apparatus to be used in connection with the operation by them of road passenger transport services along the routes or in the areas previously served by any tramway or trolley vehicle route abandoned as aforesaid.

(4) For the purpose of such adaptation alteration extension and use as aforesaid the Commission may (subject to the provisions of this Act and of the Street Works Act)—

- (a) place erect maintain and renew telephone apparatus (other than posts or poles) on in under or over the surface of any street or road within the prescribed areas but no telephone apparatus shall be placed on or over the surface of a street or road except with the consent of the highway authority which shall not be unreasonably withheld ;
- (b) open or break up any street or road within the prescribed areas under which telephone apparatus of the Commission is or may be laid ;
- (c) attach telephone apparatus to any lamp-standard public service vehicle stop sign-post or building in any such street or road as is referred to in paragraph (b) of this subsection with the consent in writing of the owner of such lamp-standard sign-post or building (if the Commission are not themselves the owners thereof) and subject to such reasonable conditions as may be imposed by such owner.

(5) For the purposes of the Street Works Act the powers conferred on the Commission by this section shall not be deemed to be powers conferred for purposes of a railway undertaking or a tramway undertaking nor shall any works executed by the Commission under the powers of this section be deemed to be works for purposes of a railway undertaking.

(6) Any difference arising between the Commission and a highway authority under this section shall be settled by arbitration.

16. Any retained apparatus as defined in section 15 (As to retention of telephone apparatus on abandonment of tramways etc.) of this Act and any telephone apparatus placed erected maintained and renewed in pursuance of the powers conferred by the said section shall not be used in contravention of the exclusive privilege conferred on the Postmaster-General by the Telegraph Act 1869.

For protection of Postmaster-General. 32 & 33 Vict. c. 73.

17. The following provisions of the undermentioned Acts are incorporated with and form part of this Part of this Act:—

The Act of 1949—

- Section 6 (Power to deviate) ;
- Section 7 (Repair of roads where level not permanently altered) ;
- Section 16 (Power to make agreements with road authorities) ;
- Section 17 (Underpinning of houses near works) ;
- Section 18 (Power to make trial borings) :

Incorporation of provisions of Acts of 1949 and 1950 relating to works.

PART II
—cont.

The Act of 1950—

- Section 12 (Stopping up roads and footpaths without providing a substitute);
- Section 13 (Stopping up roads and footpaths in case of diversion);
- Section 14 (Provision as to repair of roads and footpaths);
- Section 15 (Use of sewers for removing water).

PART III

LANDS

Power to
acquire lands.

18.—(1) Subject to the provisions of this Act the Commission may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as they may require for the purposes of the works or for any purpose connected with or ancillary to their undertaking.

(2) Without prejudice to the generality of the powers conferred upon the Commission by subsection (1) of this section the Commission may subject to the provisions of this Act enter upon take and use for the purposes specified in the third column of the Third Schedule to this Act all or any of the lands referred to in the first and second columns of the said schedule.

(3) Subject to the provisions of this Act the Commission may enter upon use and appropriate so much of the subsoil and under-surface of any public street road footway or place delineated on the deposited plans and described in the deposited book of reference as shall be necessary for the purposes of the works without being required to purchase the same or any easement therein or thereunder or to make any payment therefor.

(4) The Commission shall not under the powers of this Act acquire any part of the surface of the lands numbered on the deposited plans 1 in the metropolitan borough of Stepney but they may subject to and in accordance with the provisions of section 22 (Power to acquire easements only in certain cases) of this Act acquire such easement or right over the said lands as they may require for the purpose of constructing maintaining renewing and using thereover an extension of the viaduct adjoining the said lands on the north side thereof.

(5) The Commission shall not under the powers of this section enter upon take or use the lands delineated on the deposited plans and described in the deposited book of reference and therein numbered 27 to 42 (inclusive) in the borough of Barking and 1 to 5 (inclusive) in the borough of Dagenham or any part of those lands.

19.—(1) Whereas in the construction of the works or otherwise in the exercise by the Commission of the powers of this Act it may happen that portions only of the properties whereof the whole or part is described in the Fourth Schedule to this Act will be sufficient for the purposes of the Commission and that such portions or some other portions less than the whole can be severed from the remainder of the said properties respectively without material detriment thereto Therefore the following provisions shall have effect:—

- (a) The owner of and persons interested in any of the said properties whereof a portion only is required for the purposes of the Commission or each or any of them are or is hereinafter in this section included in the term “the owner”;
- (b) If for twenty-one days after the service of notice to treat in respect of a specified portion of any of the said properties the owner fails to notify the Commission in writing that he alleges that such portion cannot be severed from the remainder of the property without material detriment thereto he may be required to sell and convey to the Commission such portion only without the Commission being obliged or compellable to purchase the whole the Commission paying for the portion so taken and making compensation for any loss sustained by the owner by severance or otherwise;
- (c) If within such twenty-one days the owner alleges by notice in writing to the Commission that such portion cannot be so severed the tribunal shall in addition to the other questions required to be determined by it determine whether the portion of the property specified in the notice to treat can be severed from the remainder without material detriment thereto and if not whether any and what other portion less than the whole (but not exceeding the portion that may be acquired compulsorily under this Act) can be so severed;
- (d) If the tribunal determines that the portion of the property specified in the notice to treat or any such other portion as aforesaid can be severed from the remainder without material detriment thereto the owner may be required to sell and convey to the Commission the portion which the tribunal shall have determined to be so severable without the Commission being obliged or compellable to purchase the whole the Commission paying such sum for the portion taken by them including compensation for any damage sustained by the owner by severance or otherwise as shall be awarded by the tribunal;

PART III
—cont.

- (e) If the tribunal determines that the portion of the property specified in the notice to treat can notwithstanding the allegation of the owner be severed from the remainder without material detriment thereto the tribunal may determine and order that the costs charges and expenses incurred by the owner incident to the determination of any matters under this section or such part (if any) of the said costs charges and expenses as it thinks fit shall be borne and paid by the owner ;
- (f) If the tribunal determines that the portion of the property specified in the notice to treat cannot be severed from the remainder without material detriment thereto (and whether or not it determines that any other portion can be so severed) the Commission may withdraw their notice to treat and thereupon they shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice ;
- (g) If the tribunal determines that the portion of the property specified in the notice to treat cannot be severed from the remainder without material detriment thereto but that any such other portion as aforesaid can be so severed the Commission in case they shall not withdraw the notice to treat shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice or such portion thereof as the tribunal thinks fit having regard to the circumstances of the case and its final determination.

(2) The provisions of this section shall be in force notwithstanding anything contained in the Lands Clauses Consolidation Act 1845 and nothing contained in or done under this section shall be held as determining or as being or implying an admission that the said properties or any of them or any part thereof is or is not or but for this section would or would not be subject to the provisions of section 92 of the Lands Clauses Consolidation Act 1845.

(3) The provisions of this section shall be stated in or endorsed on every notice given thereunder to sell and convey any of the said properties.

Disregard
of recent
improvements
and interests.

20. In determining any question of disputed compensation or purchase money in respect of land acquired under this Act the tribunal shall not take into account—

- (a) any improvement or alteration made or building erected after the fifth day of December one thousand nine hundred and fifty ; or
- (b) any interest in the land created after the said date ;
- which in the opinion of the tribunal was not reasonably necessary and was made erected or created with a view to obtaining or increasing the compensation or purchase money.

21.—(1) All private rights of way over any land that may be acquired compulsorily under this Act shall as from the acquisition of the land whether compulsorily or by agreement be extinguished. Extinction of rights of way.

(2) Any person who suffers loss by the extinguishment of any right under subsection (1) of this section shall be entitled to be paid by the Commission compensation to be determined in case of dispute under and in accordance with the Lands Clauses Acts.

(3) All such public rights of way (if any) as may exist over the lands numbered on the deposited plans 4 in the city and county borough of Nottingham shall as from the acquisition of the said lands whether compulsorily or by agreement be extinguished.

22. Notwithstanding anything in this Act the Commission may acquire such easements or rights as they may require for the purpose of constructing maintaining renewing and using the works in under or over— Power to acquire easements only in certain cases.

(a) any railway tramway tramroad river canal navigation watercourse aqueduct drain dyke or sewer ; or

(b) any of the properties described in the Fifth Schedule to this Act ;

without being obliged or compellable to acquire any greater interest in under or over the same respectively and may give notice to treat in respect of such easements or rights describing the nature thereof and (subject to the foregoing provisions of this section and to the other provisions of this Act) the provisions of the Lands Clauses Acts shall extend and apply in relation to the acquisition of such easements or rights as if they were lands within the meaning of those Acts.

23. The powers of the Commission for the compulsory purchase of the lands which they are authorised to acquire by section 18 (Power to acquire lands) of this Act shall cease on the thirty-first day of December one thousand nine hundred and fifty-four. Period for compulsory purchase of lands.

24.—(1) The Commission may hold use and appropriate for the purposes specified in the second column of the Sixth Schedule to this Act the lands referred to in the first column of the said schedule being lands which the Commission have already acquired. Power to use certain lands.

(2) The said lands are more particularly shown coloured red on the plan which has been signed in triplicate by William Henry Mainwaring the chairman of the committee of the House of Commons to whom the Bill for this Act was referred of which

PART III
—cont.

plan one copy has been deposited in the office of the Clerk of the Parliaments in the House of Lords one copy in the Private Bill Office of the House of Commons and one copy at the principal office of the Commission.

(3) Copies of or extracts from the said plan deposited at the principal office of the Commission and purporting to be certified on behalf of the Commission to be true shall be received in all courts of justice and elsewhere as prima facie evidence of the contents of the said plan.

(4) Nothing in this section shall prejudice or affect the powers of the Commission with respect to the use of lands under any enactment from time to time relating to the Commission.

Incorporation
of provisions
of Act of 1949
relating to
lands.

25. The following provisions of the Act of 1949 are incorporated with and form part of this Part of this Act:—

Section 23 (Correction of errors in deposited plans and book of reference);

Section 25 (Power to expedite entry);

Section 26 (Power to enter for survey or valuation);

Section 30 (Grant of easements by persons under disability);

Section 32 (As to private street expenses in certain cases);

Section 33 (As to cellars under streets not referenced).

PART IV

PROTECTIVE PROVISIONS

Incorporation
of protective
provisions of
Acts of 1949
and 1950.

26. The following provisions of the undermentioned Acts are incorporated with and form part of this Part of this Act:—

The Act of 1949—

Section 42 (Protection of gas and water mains of local authorities &c.);

Section 43 (As to works within Metropolitan Police District):

The Act of 1950—

Section 27 (For protection of gas and water undertakers).

For
protection
of electricity
undertakers.
10 & 11 Geo. 6.
c. 54.

27.—(1) Section 27 (For protection of gas and water undertakers) of the Act of 1950 as incorporated with this Act shall apply and have effect with respect to any apparatus of any electricity board (as defined in section 1 of the Electricity Act 1947) in over or under any street as if in the said section 27—

(a) the expression “the undertakers” meant any such electricity board;

- (b) the word “ apparatus ” meant electric lines and works (as respectively defined in the Electricity Supply Acts 1882 to 1936) of any such electricity board ;
- (c) the words “ or electricity ” were inserted after the words “ gas or water ” in paragraph (2) thereof ; and
- (d) the following paragraph were substituted for paragraph (6) thereof :—

“ (6) The Commission shall indemnify the undertakers against all claims demands proceedings costs damages and expenses made or taken against or recovered from or incurred by the undertakers by reason or in consequence of any interruption in the supply of electricity by the undertakers which may without the written authority of the undertakers be in any way occasioned either by reason of the exercise by the Commission of the powers of this Act relating to the works or by the acts or defaults (in or in connection with such exercise) of the Commission ”.

(2) Section 41 (For protection of electricity boards) of the Act of 1949 shall apply and have effect with respect to any electric lines or other works of any such electricity board situated elsewhere than in over or under any street as defined in the said section 27.

28. The following provisions of the Act of 1950 are incorporated with and form part of this Part of this Act :—

Section 32	(For protection of London County Council) ;	For protection of London County Council.
Section 33	(For protection of sewers of London County Council) ;	
Section 34	(For further protection of certain sewers) ;	
Section 35	(Inspection of works by London County Council) :	

Provided that—

- (i) the said section 34 as so incorporated shall apply and have effect as if for the reference in that section to the sewers respectively known as the Duffield sewer and the Southern High Level Sewer No. 1 there were substituted a reference to the sewers respectively known as the Regent Street sewer and the Middle Level Sewer No. 1 ;
- (ii) the said sections 32 33 34 and 35 as so incorporated shall not apply to works authorised by section 15 (As to retention of telephone apparatus on abandonment of tramways etc.) of this Act.

29. Nothing in this Act affects prejudicially any estate right Crown power privilege or exemption of the Crown and in particular rights. nothing herein contained authorises the Commission to take use

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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 land hereditaments subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Crown Lands without the consent in writing of those commissioners on behalf of His Majesty first had and obtained for that purpose.

Provision
against danger
to navigation.

30.—(1) In case of injury to or destruction or decay of the works or any part thereof so far as the same shall be constructed on under or over any tidal waters or tidal lands below high-water mark of ordinary spring tides the Commission shall lay down such buoys exhibit such lights or take such other means for preventing so far as may be danger to navigation as shall from time to time be directed by the Corporation of Trinity House and shall apply to the said corporation for directions as to the means to be taken.

(2) If the Commission fail to comply in any respect with the provisions of this section they shall be liable on summary conviction to a penalty not exceeding ten pounds and in the case of a continuing offence to an additional penalty not exceeding one pound for every day during which they omit after conviction thereof so to apply or refuse or neglect to obey any direction given in reference to the means to be taken.

For
protection of
Manchester
Corporation.

31. For the protection of the lord mayor aldermen and citizens of the city of Manchester (in this section referred to as “the corporation”) the following provisions shall unless otherwise agreed in writing between the Commission and the corporation apply and have effect:—

- (1) In this section the “existing railway” means the existing railway between Manchester Exchange and Manchester Victoria stations:
- (2) Before commencing the construction of the bridges carrying Work No. 8 over Great Ducie Street and Moreton Street in the city of Manchester the Commission shall submit to the corporation for their reasonable approval in respect of any matters with which the corporation are properly concerned the plans sections and particulars relating thereto and such bridges shall not be constructed otherwise than in accordance with such plans sections and particulars as may be approved by the corporation as aforesaid or if such approval be refused as may be settled by arbitration and any part of the works which may involve interference with a highway repairable by the corporation shall be constructed under the supervision (if given) and to the reasonable satisfaction of the corporation:

Provided that if within twenty-eight days after the submission to them of plans sections and particulars

under this paragraph the corporation do not signify to the Commission their approval or disapproval thereof they shall be deemed to have approved thereof:

(3) Notwithstanding anything in this Act the Commission shall if they construct the bridges carrying the said Work No. 8 over Great Ducie Street and Moreton Street construct the same—

(a) with spans not less than the spans of the bridges carrying the existing railway over those streets; and

(b) with a minimum headway over the upper surface of any part of Great Ducie Street and Moreton Street of not less than sixteen feet six inches and seventeen feet three inches respectively:

(4) The said bridges shall be constructed in such a manner as to prevent so far as may be reasonably practicable the dripping of water:

(5) The corporation may at the cost of the Commission provide and place such lamps and apparatus as may from time to time be reasonably necessary for efficiently lighting the said streets under the said bridges and keep the same sufficiently lighted:

(6) Any difference between the Commission and the corporation under this section shall be settled by arbitration.

32. For the protection of the lord mayor aldermen and citizens of the city of Nottingham and county of the same city (in this section referred to as “the corporation” and “the city” respectively) the following provisions shall unless otherwise agreed in writing between the Commission and the corporation apply and have effect:—

For
protection of
Nottingham
Corporation.

(1) In this section the expression “the existing bridge” means the existing bridge in the city carrying the railway between Radford and Nottingham over Sherwin Road and “the bridge widening” means the widening of that bridge (Work No. 3) authorised by this Act:

(2) The Commission shall in executing Work No. 2 authorised by this Act construct the widening of the bridge carrying the railway between Radford and Nottingham over the river Leen with a span of not less than fifty-three feet and with the foundations of the abutments of such a depth as will permit of the corporation lowering the bed of the said river to a depth of six feet below the under side of the girders of the said bridge:

(3) Subject to the provisions of this section hereinafter contained the Commission shall in executing the bridge widening construct the same with a span not less than

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—cont.

the span of the existing bridge and with a minimum headway over the upper surface of any part of the footpath under the bridge widening of not less than six feet nine inches :

(4) In the event of it being necessary to lower the footpath under the bridge widening in order to provide the minimum headway specified in paragraph (3) of this section the footpath under the bridge widening and the existing bridge and the approaches thereto (so far as may be necessary to secure a reasonable gradient on the approaches) shall be lowered by the corporation and reconstructed with tarmacadam laid on hard core and the Commission shall pay to the corporation the cost reasonably incurred by the corporation in so lowering the approaches and the portion of the footpath under the bridge widening and in making good any boundary walls or fences fronting on such approaches :

(5) Before commencing the construction of the works referred to in paragraphs (2) and (3) of this section the Commission shall submit to the corporation plans sections and particulars relating thereto for their reasonable approval :

Provided that if within twenty-eight days after the submission of such plans sections and particulars the corporation do not signify to the Commission their disapproval thereof and their requirements in relation thereto they shall be deemed to have approved thereof :

(6) The Commission shall not construct any works in respect of which they are required by this section to submit plans sections and particulars to the corporation for their reasonable approval otherwise than in accordance with such plans sections and particulars as may be so approved by the corporation or if such approval be refused as may be settled by arbitration and all such works shall be constructed under the supervision (if given) and to the reasonable satisfaction of the corporation :

(7) The Commission shall not enter upon take or use under the powers of this Act any part of the lands in the city numbered 7 on the deposited plans without the previous consent in writing of the corporation :

(8) Any difference arising between the Commission and the corporation under this section shall be settled by arbitration.

For
protection of
Southend-
on-Sea
Corporation.

33. For the protection of the mayor aldermen and burgesses of the county borough of Southend-on-Sea (in this section referred to as "the corporation") the following provisions shall

unless otherwise agreed in writing between the Commission and the corporation apply and have effect:—

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—cont.

(1) In this section—

“the borough” means the county borough of Southend-on-Sea;

“the existing Ness Road bridge” and “the existing Elm Road bridge” mean respectively the existing bridge carrying Ness Road in the borough over the railway and the existing bridge carrying Elm Road in the borough over the railway;

“the said lands” means the lands numbered on the deposited plans 1 to 5 in the borough;

“the existing sewer” means the existing sewer constructed by the corporation in the said lands;

“sewer” includes manholes and other apparatus constructed in connection therewith;

“the proposed road” means the road proposed to be constructed by the corporation between Brickfield Lane and Ness Road:

(2) (a) Before commencing the execution of Work No. 5 or Work No. 6 authorised by this Act the Commission shall give notice in writing to the corporation of their intention so to do;

(b) If within two months after the receipt of a notice referred to in sub-paragraph (a) of this paragraph the Corporation give a counter-notice in writing to the Commission of their desire that the reconstructed and lengthened bridge comprised in the work to which the notice relates shall be made with a width between the parapets not less than such width (not being more than sixty feet) as may be specified in the counter-notice the Commission shall comply with the counter-notice and on the completion of the execution of the work referred to in the notice the corporation shall pay to the Commission—

(i) the cost which it would have been necessary to expend in widening the existing Ness Road bridge or the existing Elm Road bridge (as the case may be) to the width between the parapets specified in the counter-notice calculated on the assumption that methods of construction accepted as good prudent engineering practice at the date of the counter-notice had been adopted; and

(ii) an amount representing the increase in the capital cost of maintaining such existing bridge as so widened as compared with the capital cost of maintaining the existing bridge:

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- (3) Before commencing the execution of the works referred to in paragraph (2) of this section the Commission shall submit to the corporation plans sections and particulars relating thereto for their reasonable approval:

Provided that if within five weeks after the submission of such plans sections and particulars the corporation do not signify to the Commission in writing their approval or disapproval thereof and their requirements in relation thereto they shall be deemed to have approved thereof:

- (4) The Commission shall not execute the works referred to in paragraph (2) of this section otherwise than in accordance with such plans sections and particulars as may be reasonably approved by the corporation or if such approval be refused as may be settled by arbitration and all such works shall be constructed to the reasonable satisfaction of the corporation:

- (5) In executing and also in effecting repairs or renewals of any works in connection with the provision of a railway depot on the said lands which may interfere with the existing sewer the same shall be done by and in all respects at the expense of the Commission and under the superintendence (if given) and to the reasonable satisfaction of the corporation's engineer (in this section referred to as "the said engineer") and except in cases of repair according to plans sections specifications and particulars to be submitted to and reasonably approved by the said engineer or if such approval be refused as may be settled by arbitration before such works are executed:

Provided that if within five weeks after the submission of such plans sections specifications and particulars the said engineer does not signify to the Commission in writing his approval or disapproval thereof and his requirements in relation thereto he shall be deemed to have approved thereof:

- (6) If in consequence of the exercise of the powers of this Act it is reasonably necessary to alter the position of or to lengthen or to strengthen the existing sewer or to provide works for the protection thereof such alteration lengthening strengthening or protection shall be carried out by the Commission in a manner reasonably approved by the corporation or if the corporation prefer shall be carried out by them and the Commission shall repay to the corporation any expense reasonably incurred by the corporation in carrying out the same

and any additional expense which the corporation may thereafter reasonably incur in maintaining such sewer :

- (7) The Commission shall make compensation to the corporation for any damage to the existing sewer or interference with the free flow of the contents thereof which may be caused by or in consequence of any act or default of the Commission their contractors servants or agents and whether such damage shall happen during the execution of the works referred to in paragraph (5) of this section or at any time thereafter :
- (8) The Commission shall pay to the corporation the cost reasonably incurred by them in—
- (a) providing two new back-drops in such positions as may be required by the said engineer in connection with the existing sewer in substitution for the two existing back-drops which have been provided by the corporation in connection with that sewer and of like construction to the said existing back-drops ; and
 - (b) altering such of the manholes on the existing sewer as the said engineer may consider necessary to alter in consequence of any works proposed to be executed by the Commission on the said lands :

- (9) The Commission shall—

(a) afford to the corporation free of cost reasonable facilities and means of access for maintaining repairing and renewing the existing sewer and for constructing any new connections with that sewer which the corporation may require to make ; and

(b) pay to the corporation any additional cost reasonably incurred by them in such maintenance repair or renewal by reason of the existence of any railway works on the said lands at the time of such maintenance repair or renewal :

Provided that any new connections with the existing sewer on the said lands shall be made only at such places as may be agreed between the Commission and the corporation or as failing agreement may be determined by arbitration :

Provided also that the corporation shall not (except in case of emergency) enter upon the said lands for the purposes aforesaid except at such reasonable times as may be agreed upon between the Commission and the corporation and shall not execute any such work of maintenance repair or renewal as may affect the operation of the said railway works except to the reasonable satisfaction of the engineer of the Commission :

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(10) (a) The Commission shall not except as provided in this paragraph provide direct means of access between the said lands and Brickfield Lane ;

(b) The corporation shall take all reasonable steps to acquire and shall as soon as may be after acquiring the same convey to the Commission free of cost such land as may be necessary to enable the Commission to provide in such position near to the junction of the proposed road with Brickfield Lane as may be agreed between the corporation and the Commission or as failing agreement may be determined by arbitration an access road twenty feet wide leading from the said lands to the proposed road :

Provided that all costs and expenses of and incidental to the conveyance of such land (including the stamping of the conveyance) shall be borne and paid by the Commission ;

(c) The corporation shall construct so much of the proposed road as shall be necessary to connect the said access road with Brickfield Lane :

Provided that—

(i) until the corporation shall have conveyed to the Commission the land referred to in sub-paragraph (b) of this paragraph and shall have constructed so much of the proposed road as is referred to in sub-paragraph (c) of this paragraph the Commission may provide temporary means of access over the said lands to Brickfield Lane ;

(ii) for the purposes of section 22 of the Private Street Works Act 1892 the said access road shall not be deemed to be a communication between the proposed road and the said lands :

(11) The Commission shall—

(a) to the reasonable satisfaction of the corporation construct and maintain a good and sufficient wall not less than four feet six inches high along the full length of the boundary of the said lands where such boundary adjoins the proposed road ;

(b) where the said lands shall be at a different level than the proposed road execute and maintain any works which may be constructed by them on those lands in such a manner as not to interfere with the support of the proposed road :

(12) The Commission shall if required by the corporation grant to them free of cost such easements and facilities over the said lands when acquired by the Commission as the corporation may reasonably require for

the widening and improvement of the roads leading to the bridges respectively carrying Brickfield Lane and Ness Road over the railway:

Provided that—

(a) there shall be reserved to the Commission out of any such grants all such rights of placing maintaining renewing and inspecting any electrical or other apparatus either above or below ground which may be reasonably required for the purpose of carrying on their railway undertaking;

(b) the costs and expenses of and incidental to the granting of such easements and facilities (including the stamping of any deeds or other documents required for that purpose) shall be borne and paid by the corporation;

(c) the Commission shall indemnify the corporation against all claims in respect of any damage injury or loss which may be suffered by any person by reason of the existence or failure of any such apparatus:

- (13) Any difference arising between the Commission and the corporation under this section shall be settled by arbitration.

34. For the protection of the mayor aldermen and burgesses of the county borough of Walsall (in this section referred to as “the corporation” and “the borough” respectively) the following provisions shall unless otherwise agreed in writing between the Commission and the corporation apply and have effect:—

For
protection
of Walsall
Corporation.

- (1) If the corporation at any time after the passing of this Act request the Commission to widen the bridge (known as the New Mills bridge) in the borough carrying Wednesbury Road over the railway between Walsall and Wolverhampton to a width between the parapets thereof of not more than sixty feet measured on the square the Commission shall widen the said bridge in accordance with such request and at the expense in all respects of the corporation who shall also pay to the Commission an amount representing the increase in the capital cost of maintaining the said bridge as existing at the passing of this Act occasioned by the widening of such existing bridge to the width to which it has been widened in accordance with this paragraph:

Provided that the amount payable to the Commission by the corporation under this paragraph shall be

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—cont.

reduced by the amount of any additional expense incurred in effecting such widening in consequence of the construction of Work No. 9 authorised by this Act:

- (2) (a) Not less than twenty-eight days before commencing the construction of the said Work No. 9 the Commission shall submit to the corporation for their reasonable approval plans sections and specifications of the works proposed showing the manner of the construction thereof and of the alteration of any road proposed to be executed in connection therewith;

(b) If the corporation shall not within twenty-eight days after the submission to them of any such plans sections and specifications intimate in writing to the Commission any objection thereto or make any requirement with reference thereto they shall be deemed to have approved thereof:

- (3) The Commission shall not construct any works in respect of which they are required by this section to submit plans sections and specifications to the corporation for their reasonable approval otherwise than in accordance with such plans sections and specifications as may be so approved or if such approval be refused as may be settled by arbitration as hereinafter provided and all such works shall be constructed under the supervision (if given) and to the reasonable satisfaction of the corporation:

- (4) (a) Before commencing to construct any part of the said Work No. 9 which will involve interference with a highway repairable by the corporation the Commission shall consult the corporation as to the time when such part shall be commenced and as to the extent of the surface of the highway that it may be reasonably necessary for the Commission to occupy in the construction of such part and as to the conditions under which such part shall be constructed so as to reduce so far as possible inconvenience to the public and to ensure the safety of the public and such part shall not be constructed and the surface of the highway shall not be occupied by the Commission except at the time to the extent and in accordance with conditions agreed between the Commission and the corporation or in default of agreement settled by arbitration;

(b) Any such highway shall be reinstated by the Commission in a manner reasonably approved by the corporation and to their reasonable satisfaction or if the corporation prefer shall be reinstated by them and the Commission shall repay to the corporation any expense reasonably incurred in reinstating the same:

- (5) If in consequence of the execution of the said Work No. 9 or of the exercise of any of the powers of this Act it is necessary or desirable to alter the position of or lengthen or strengthen any lamp-posts culverts sewers drains pipes or other apparatus of the corporation or to provide works for the protection thereof such alteration lengthening strengthening or protection shall be carried out by the Commission in a manner reasonably approved by the corporation or if the corporation prefer be carried out by them and the Commission shall repay the corporation any expense reasonably incurred by the corporation in carrying out the same and any additional expense which the corporation may thereafter incur in maintaining such lamp-posts culverts sewers drains pipes or other apparatus:
- (6) The Commission shall to the reasonable satisfaction of the corporation restore all lamp-posts culverts sewers drains pipes or other apparatus of the corporation which shall be broken up damaged or disturbed by the Commission in the execution of the said Work No. 9 or in the exercise of any of the powers by this Act granted or provide in substitution therefor other proper and sufficient lamp-posts culverts sewers drains pipes or other apparatus:
- (7) Any difference arising between the Commission and the corporation under this section shall be settled by arbitration.

35. For the protection of the Eastern Electricity Board and the London Electricity Board (each of whom is in this section referred to as "the undertakers") the following provisions shall unless otherwise agreed in writing between the Commission and the undertakers concerned apply and have effect:—

For
protection
of Eastern
and London
Electricity
Boards.

(1) In this section—

"apparatus" means electric lines or works (as respectively defined in the Electricity Supply Acts 1882 to 1936) belonging to or lawfully laid or erected by the undertakers elsewhere than in or over or under a street as defined in section 27 (For protection of gas and water undertakers) of the Act of 1950; and

"adequate alternative apparatus" means alternative apparatus adequate to enable the undertakers to fulfil their statutory functions in a manner not less efficient than previously:

(2) Notwithstanding anything in this Act or shown on the deposited plans the Commission shall not acquire any apparatus under the powers of this Act otherwise than by agreement:

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—cont.

- (3) If the Commission in the exercise of the powers of this Act acquire any interest in any lands in under over or across which any apparatus is placed they shall not remove or require the removal of that apparatus or seek to extinguish any right of the undertakers to maintain that apparatus in under over or across those lands until adequate alternative apparatus shall have been constructed and be in operation to the reasonable satisfaction of the undertakers :
- (4) If the Commission for the purpose of exercising any of the powers of this Act require the removal of any apparatus and give to the undertakers written notice of such requirement or if in consequence of the exercise of any of such powers the undertakers shall reasonably require to remove any apparatus the Commission shall afford to the undertakers the necessary facilities and rights for the construction of adequate alternative apparatus in on or over other lands of the Commission and thereafter for the maintenance repair renewal and inspection of such apparatus :

Provided that if the Commission are unable to afford such facilities and rights as aforesaid the undertakers shall on receipt of a written notice to that effect from the Commission forthwith use their best endeavours to obtain the necessary facilities and rights over other land :

- (5) (a) Any alternative apparatus to be constructed in on or over lands of the Commission in pursuance of this section shall be constructed in such manner and in such line or situation as may be agreed between the undertakers and the Commission or in default of agreement settled by arbitration ;

(b) The undertakers shall after the grant to the undertakers by the Commission of any such facilities and rights as aforesaid proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the Commission to be removed under the provisions of this section :

Provided that if the Commission give notice in writing to the undertakers that they desire themselves to execute any part of the work necessary in connection with the construction of the alternative apparatus or the removal of the apparatus required to be removed (other than the actual installation removal connection and disconnection of apparatus) such work shall be executed by the Commission with all reasonable dispatch under the superintendence (if given) of and to the reasonable satisfaction of the undertakers :

- (6) Where in accordance with the provisions of this section the Commission afford to the undertakers facilities and rights for the construction maintenance repair renewal and inspection in on or over lands of the Commission of alternative apparatus in substitution for apparatus to be removed as aforesaid those facilities and rights shall be granted upon such terms and conditions as may be agreed between the Commission and the undertakers or in default of agreement determined by arbitration:

Provided that in determining such terms and conditions as aforesaid the arbitrator shall (so far as it may be reasonable and practicable to do so in the circumstances of the particular case)—

(a) in respect of alternative apparatus to be constructed across or along any railway of the Commission give effect to the terms and conditions on which such facilities and rights are usually granted by the Commission to the undertakers in respect of apparatus to be so constructed; and

(b) in respect of alternative apparatus to be constructed elsewhere than across or along such railway give effect to the terms and conditions on which such facilities and rights are usually granted to the undertakers by the owners of lands other than the Commission:

Provided also that if the facilities and rights to be afforded by the Commission in respect of any alternative apparatus and the terms and conditions subject to which the same are to be granted are in the opinion of the arbitrator less favourable on the whole to the undertakers than the facilities and rights enjoyed by them in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject the arbitrator shall make such provision for the payment of compensation by the Commission to the undertakers in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the particular case:

- (7) If the Commission in the exercise of the powers of this Act require to execute any works near to any apparatus they shall (except in a case of emergency) give to the undertakers not less than fourteen days' notice of their intention to execute the works and shall if so required by the undertakers provide them with a plan and description of the works and the undertakers shall be entitled by their officer to watch and inspect the

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—cont.

execution of the works and the Commission shall comply with such reasonable requirements as may be made by the undertakers or their officer for the protection of the apparatus or securing access thereto. In a case of emergency the Commission shall give notice to the undertakers as soon as reasonably practicable and shall comply with the provisions of this paragraph so far as is reasonably practicable in the circumstances:

- (8) The Commission shall pay to the undertakers the amount by which the costs charges and expenses reasonably incurred by the undertakers in connection with any removal or alteration of any apparatus or the construction of any new apparatus that may be required in consequence of the exercise of any such powers as aforesaid shall exceed the value of any apparatus removed in consequence of alternative apparatus being provided and shall also make compensation to the undertakers for any damage caused to any apparatus in consequence of the exercise of any such powers as aforesaid (other than apparatus the repair of which is not reasonably necessary in view of its intended removal in accordance with the provisions of this section) and for any other loss damages penalty or costs incurred by the undertakers by reason of the exercise by the Commission of such powers:
- (9) The London Electricity Board may exercise the same rights of access to any apparatus belonging to them and situated in or under any part of Ravenet Street in the metropolitan borough of Battersea which may be appropriated by the Commission under the powers of this Act and the same rights of laying or placing new apparatus in or under such part of the said street as they now enjoy:
- (10) Any difference arising between the Commission and the undertakers under this section shall be settled by arbitration:
- (11) The provisions of subsection (1) of section 27 (For protection of electricity undertakers) of this Act shall have effect as regards any apparatus of the undertakers to which those provisions apply notwithstanding anything in the Public Utilities Street Works Act 1950 and the provisions of subsection (2) of the said section 27 shall not have effect as regards any apparatus to which the provisions of this section apply:
- (12) Nothing in this section shall be deemed to prejudice or affect the provisions of any agreement between the Commission and the undertakers in respect of any apparatus laid or erected on land belonging to the Commission at the date of this Act.

36. For the protection of the South Eastern Gas Board (in this section referred to as “the board”) the following provisions shall unless otherwise agreed in writing between the Commission and the board apply and have effect with respect to so much of Work No. 7 authorised by this Act as is not situated in a street (as defined in section 27 (For protection of gas and water undertakers) of the Act of 1950 as incorporated with this Act):—

For
protection of
South Eastern
Gas Board.

(1) In this section—

“apparatus” means any mains pipes or other works or apparatus belonging to or used by the board; and

“adequate alternative apparatus” means alternative apparatus adequate to enable the board to fulfil their statutory functions in a manner not less efficient than previously:

(2) Notwithstanding anything in this Act or shown on the deposited plans the Commission shall not acquire any apparatus under the powers of this Act otherwise than by agreement:

(3) If the Commission in the exercise of the powers of this Act acquire any interest in any lands in under over or across which any apparatus is placed they shall not remove or require the removal of that apparatus or seek to extinguish any right of the board to maintain that apparatus in under over or across those lands until adequate alternative apparatus shall have been constructed and be in operation to the reasonable satisfaction of the board;

(4) If the Commission for the purpose of exercising any of the powers of this Act require the removal of any apparatus and give to the board written notice of such requirement or if in consequence of the exercise of such powers the board shall reasonably require to remove any apparatus the Commission shall without expense to the board afford to them the necessary facilities and rights for the construction of adequate alternative apparatus in on or over other lands of the Commission and thereafter for the maintenance repair renewal and inspection of such apparatus:

(5) (a) Any alternative apparatus to be constructed in on or over lands of the Commission in pursuance of this section shall be constructed in such manner and in such line or situation as may be agreed between the board and the Commission or in default of agreement settled by arbitration;

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—cont.

(b) The board shall after the grant to the board by the Commission of any such facilities and rights as aforesaid proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the Commission to be removed under the provisions of this section:

- (6) The Commission shall pay to the board the amount by which the costs charges and expenses reasonably incurred by the board in connection with any removal or alteration of any apparatus or the construction of any new apparatus that may be required in consequence of the exercise of any such powers as aforesaid shall exceed the value of any apparatus which has been removed in consequence of alternative apparatus being provided (such value being calculated after removal) and shall also make compensation to the board for any damage caused to any apparatus in consequence of the exercise of the said powers (other than apparatus the repair of which is not reasonably necessary in view of its intended removal in accordance with the provisions of this section):
- (7) The Commission shall not carry out any work under the powers of this Act near to which any apparatus has been lawfully placed except in accordance with and subject to the provisions of paragraphs (2) (3) (4) (5) (6) and (7) of the said section 27 of the Act of 1950:

Provided that for the purposes of this paragraph the said section 27 shall have effect as if the expression "specified work" meant such part of the said Work No. 7 as in its execution will or may affect any apparatus and as if the word "apparatus" had the meaning assigned to it by this section:

- (8) (a) Any difference arising between the Commission and the board under this section or under any of the said provisions of section 27 of the Act of 1950 shall be settled by arbitration;

(b) In settling any question under this section the arbitrator shall have regard to any duties or obligations which the board may be under in respect of any apparatus and to any duties or obligations which the Commission may be under in respect of the said Work No. 7 and may if he thinks fit require the Commission to execute the said work or any work connected therewith so as to avoid so far as may be reasonably practicable interference with any purpose for which the apparatus of the board is used.

37. For the protection of the Southern Gas Board (in this section referred to as "the board") the following provisions shall unless otherwise agreed in writing between the Commission and the board apply and have effect:—

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—cont.

For
protection of
Southern
Gas Board.

- (1) Notwithstanding anything contained in this Act or shown on the deposited plans or sections the Commission shall not under the powers of this Act acquire compulsorily any mains pipes apparatus meter-houses or other erections structures or property of the board:
- (2) The provisions of section 27 (For protection of gas and water undertakers) of the Act of 1950 as incorporated with this Act shall apply and have effect with all necessary modifications to any mains or apparatus of the board situate in or under lands within the limits of deviation shown on the deposited plans in respect of Work No. 10 authorised by this Act (other than the lands edged green on the plan annexed to the agreement dated the third day of February one thousand nine hundred and thirty-seven and made between the Southern Railway Company of the one part and Portsmouth and Gosport Gas Company of the other part) as if such mains and apparatus were apparatus of the board in or under a street and for the purpose of such application the said Work No. 10 shall be deemed to be a specified work:
- (3) Nothing in this section shall be deemed to prejudice or affect (a) powers of the Commission to raise sink or otherwise alter the position of any mains or other pipes of the board under section 18 of the Railways Clauses Consolidation Act 1845 as incorporated with this Act or (b) any of the provisions of the said agreement dated the third day of February one thousand nine hundred and thirty-seven.

38. For the protection of the River Roding Catchment Board (in this section referred to as "the catchment board") the following provisions shall unless otherwise agreed in writing between the Commission and the catchment board apply and have effect:—

For
protection of
River Roding
Catchment
Board.

- (1) In this section "the main river" means the main river of the catchment board as for the time being shown upon the map of the River Roding Catchment Area in force under section 5 of the Land Drainage Act 1930 or on any map approved or varied in accordance with the provisions of section 6 of the River Boards Act 1948:

20 & 21 Geo. 5.
c. 44.
11 & 12 Geo. 6.
c. 32.

PART IV
—cont.

(2) Except with the consent of the catchment board the Commission shall not on in under or over any lands acquired by them under this Act erect any building or structure execute any work or do anything—

(a) so as to interrupt or impede the free passage of water (including flood water) through in into or out of the main river ; or

(b) otherwise than—

(i) so that the top or upper surface of any structure or work constructed under the main river shall be situate at such depth below the main river as to allow of the proper cleansing and scouring of the main river and of the deepening of the bed thereof to such extent as may be reasonably required by the catchment board ; and

(ii) so as to permit of any such widening of the main river as the catchment board may reasonably require :

(3) (a) Not less than twenty-eight days before commencing to erect any building or structure or to execute any work in under or over any lands acquired by them under this Act so as in any way to affect or interfere with the main river or the banks thereof the Commission shall submit plans sections and particulars of the proposed building structure or work to the catchment board for their reasonable approval :

Provided that if the catchment board do not within twenty-eight days after the submission to them of such plans sections and particulars signify to the Commission their approval or disapproval thereof they shall be deemed to have approved thereof and that if within such last-mentioned period the catchment board shall have expressed their disapproval of such plans sections and particulars a difference shall be deemed to have arisen between them and the Commission which shall (unless previously settled by agreement) be determined by arbitration ;

(b) So much of any such building structure or work as may affect or interfere with the main river or the banks thereof as aforesaid shall not be erected or executed otherwise than in strict accordance with such plans sections and particulars as may be approved by the catchment board or settled by arbitration as aforesaid and shall be erected and constructed to the reasonable satisfaction of the catchment board and under the superintendence of their engineer if the engineer elect

to superintend after receiving reasonable notice of the date and time on and at which the building structure or work is to be commenced ;

PART IV
—cont.

(c) The Commission shall at all reasonable times afford to the engineer of the catchment board and his duly authorised representatives access to such building structure or work or part thereof as aforesaid for the purposes of inspection :

(4) (a) Where any lands acquired by the Commission under this Act abut upon the main river the catchment board and their officers servants workmen contractors and agents shall be entitled at all times to have access to the main river and to pass and repass along the banks thereof and use such banks for that purpose and for the exercise and discharge of their functions ;

(b) The Commission shall from time to time give to the catchment board and their officers servants workmen contractors and agents such facilities as shall be reasonably necessary for the purposes of this paragraph :

(5) Any difference arising between the Commission and the catchment board under this section shall be settled by arbitration.

PART V

MISCELLANEOUS

39. The powers conferred upon the Trent Navigation Company by section 5 (Power to make works) of the Trent Navigation Act 1932 with respect to the construction of the works authorised by that section under the heading "Newark Town Lock Works" are (subject to the provisions in relation to the exercise of such powers and for the protection or benefit of any local authority company body or person contained in that Act) hereby revived and may be exercised by the Commission :

Revival of powers and extension of time for construction of lock works at Newark.
22 & 23 Geo. 5.
c. lxxiv.

Provided that—

(a) the powers so revived shall not be deemed to authorise the construction of works on any land which had not been acquired by or was not vested in the Commission on the twentieth day of November one thousand nine hundred and fifty ; and

(b) the said powers shall cease on the thirty-first day of December one thousand nine hundred and fifty-six except in so far as the same shall by then have been exercised.

PART V
—cont.

Repeal of section
26 of Maidstone
and Ashford
Railway Act 1880.
44 & 45 Vict.
c. clix.

Provision as
to general
railway Acts.

40. Section 26 (Protection of property of Thomas Hollingworth and John Hollingworth) of the Maidstone and Ashford Railway Act 1880 is hereby repealed.

41. Except as otherwise expressly provided nothing herein contained shall be deemed or construed to exempt Works Nos. 2 and 8 authorised by this Act from the provisions of any general Act relating to railways now in force or which may hereafter pass during this or any future session of Parliament.

Saving for
town and
country
planning.

42. This Act shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act 1947 for the purposes of subsection (4) of section 13 and subsection (1) of section 118 of that Act.

Arbitration.

43. Where under this Act any difference (other than a difference to which the provisions of the Lands Clauses Acts apply) is to be referred to or settled by arbitration then unless otherwise provided such difference shall be referred to and settled by a single arbitrator to be agreed between the parties or failing agreement to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1950 shall apply to such arbitration.

14 Geo. 6.
c. 27.

Costs of Act.

44. 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 Commission and may in whole or in part be defrayed out of revenue.

SCHEDULES

FIRST SCHEDULE

THE LEVEL CROSSINGS REFERRED TO IN SECTION 12 (ABOLITION OF RIGHTS OF WAY OVER CERTAIN LEVEL CROSSINGS) OF THIS ACT

PART I

In the county of Brecknock—

In the parish of Talgarth in the rural district of Hay—

The level crossing known as Pont Nichol level crossing whereby the road leading from Pont Nichol to the road between Crickhowell and Talgarth is crossed on the level by the railway between Talgarth and Trefeion.

In the county of West Sussex—

In the borough of Worthing—

The level crossing known as Limbrick Lane level crossing whereby Limbrick Lane is crossed on the level by the railway between Worthing and Littlehampton.

In the county of Wilts—

In the parish of Ogbourne St. George in the rural district of Marlborough and Ramsbury—

The level crossing known as Woolmers Lane level crossing whereby Woolmers Lane is crossed on the level by the railway between Swindon and Marlborough.

PART II

In the county of Brecknock—

In the parish of Talgarth in the rural district of Hay—

The level crossing known as Tredustan crossing whereby the road leading from Trefecca to Tredustan is crossed on the level by the railway between Talgarth and Trefeion.

In the county of Devon—

In the parish of Buckland Monachorum in the rural district of Tavistock—

The level crossing at Horrabridge station whereby the road leading from Horrabridge to Harrowbeer by way of Horrabridge station is crossed on the level by the railway between Plymouth and Launceston.

In the county of Merioneth—

In the urban district of Towyn—

The level crossing known as Ynys level crossing whereby the road leading from Cwrt on the road between Aberdovey and Machynlleth to the west bank of the river Dovey is crossed on the level by the railway between Dovey Junction and Aberdovey.

1ST SCH.
—cont.

In the county of Montgomery—

In the parish of Forden in the rural district of Forden—

The level crossing known as Fron level crossing whereby the road leading from Fron Farm to the river Severn is crossed on the level by the railway between Welshpool and Forden.

In the parish of Llanwnnog in the rural district of Newtown and Llanidloes—

The level crossing known as Oerffrwd crossing whereby the road leading from the road between Machynlleth and Newtown to the river Carno is crossed on the level by the railway between Whitchurch and Aberystwyth.

In the county of Salop—

In the parish of Wistanstow in the rural district of Ludlow—

The level crossing known as Watling Street level crossing whereby Watling Street is crossed on the level by the railway between Shrewsbury and Hereford.

In the county of Southampton—

In the parish of Kimpton in the rural district of Andover—

The level crossing known as Shoddesdon level crossing whereby Shoddesdon Lane is crossed on the level by the railway between Marlborough and Andover.

PART III

Session and chapter	Title or short title	Extent of repeal
7 & 8 Vict. c. lxxvii.	An Act for making a Railway from the Shoreham branch of the London and Brighton Railway to Chichester.	Section CCLXXIV in so far as it applies to Limbrick Lane level crossing.
17 & 18 Vict. c. clxxxix.	The South Devon and Tavistock Railway Act 1854.	Sections XXV and XXVI in so far as they apply to the level crossing at Horrabridge station.

PART IV

Parish or place	Level crossing
Talgarth Ogbourne St. George Towyn Forden Talgarth Llanwnnog	Pont Nichol Woolmers Lane Ynys Fron Tredustan Oerffrwd

SECOND SCHEDULE

THE PRESCRIBED AREAS REFERRED TO IN SECTION 15 (AS TO RETENTION OF TELEPHONE APPARATUS ON ABANDONMENT OF TRAMWAYS ETC.) OF THIS ACT

(1) The city of London.

(2) In the county of London—

(a) The city of Westminster;

(b) The metropolitan boroughs of—

Battersea
Bermondsey
Camberwell
Chelsea
Deptford
Finsbury
Greenwich
Hackney
Holborn
Islington
Lambeth
Lewisham
Southwark
Stoke Newington
Wandsworth
Woolwich.

(3) In the county of Surrey—

The borough of Wimbledon;

The borough of Mitcham;

The urban district of Merton and Morden.

(4) The county borough of Croydon.

THIRD SCHEDULE

LANDS REFERRED TO IN SECTION 18 (POWER TO ACQUIRE LANDS) OF
THIS ACT

Area	No. on deposited plans	Purposes for which the lands may be used
In the county of Essex— Borough of Barking ...	1 2	To carry out alterations and improvements of the railway between Fenchurch Street and Barking.
Borough of Barking ...	3 4 5	To carry out alterations and improvements of the railway between Barking and Tilbury and to construct a new footpath in accordance with the provisions of this Act.
Borough of Barking ...	6 to 26 (inclusive)	To carry out alterations and improvements of the railway between Barking and Tilbury.
Urban district of Brentwood	1 to 6 (inclusive)	To carry out alterations and improvements of the railway between Upminster and Pitsea.
Urban district of Billericay.	1 2 3	To carry out alterations and improvements of the railway between Upminster and Pitsea.
Urban district of Thurrock.	1 2	To carry out alterations and improvements of the railway between Barking and Grays.
In the county borough of East Ham	1 to 34 (inclusive)	To carry out alterations and improvements of the railway between East Ham and Barking.
In the county borough of Southend-on-Sea ...	1 to 5 (inclusive)	To provide a railway depot and in connection therewith to carry out alterations and improvements of the railway between Southend and Shoeburyness and to provide such depot with a means of access for pedestrians to and from Ness Road (described on the deposited plans as "North Shoebury Road").
In the county borough of Southend-on-Sea ...	7	To carry out alterations and improvements of the railway between Southend and Shoeburyness.

Area	No. on deposited plans	Purposes for which the lands may be used
In the county of London— Metropolitan borough of Stepney.	1	To carry out alterations and improvements of the railway between Fenchurch Street and Stepney East stations.
In the county borough of Ipswich.	1 to 13 (inclusive)	To carry out alterations and improvements to the Commission's existing locomotive depot at Ipswich.

FOURTH SCHEDULE

DESCRIBING PROPERTIES WHEREOF PORTIONS ONLY MAY BE TAKEN COMPULSORILY

Area	No. on deposited plans
	WORK No. 2
City and county borough of Nottingham ...	2 4.
	WORK No. 5
County borough of Southend-on-Sea ...	7.
	WORK No. 7
Borough of Worthing	2 3 6.
	WORK No. 8
City and county borough of Manchester ...	4 7.
	ADDITIONAL LANDS
County borough of East Ham	1 to 34 (inclusive).
Borough of Barking	1 2 6 to 26 (inclusive).
Metropolitan borough of Stepney ...	1.
County borough of Ipswich	1 to 13 (inclusive).

FIFTH SCHEDULE

DESCRIBING PROPERTIES IN RESPECT OF WHICH EASEMENTS MAY BE TAKEN

Area	No. on deposited plans
In the county of London— In the city of Westminster	1 to 3 (inclusive).

SIXTH SCHEDULE

LANDS REFERRED TO IN SECTION 24 (POWER TO USE CERTAIN LANDS)
OF THIS ACT

Description of lands	Purposes for which the lands may be used
In the county borough of Southend-on-Sea— Land comprising and on the south side of the railway from Southend to Shoeburyness extending from the bridge carrying Elm Road over the said railway to Shoeburyness station.	To provide a railway depot and in connection therewith to carry out alterations and improvements to the railway between Southend and Shoeburyness.

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ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short and collective titles.
2. Division of Act into Parts.
3. Interpretation.
4. Incorporation of general Acts.

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7. As to dimensions of bridge.
8. Power to enter into agreements with Worthing Corporation.
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10. Power to enter into agreements with Southampton County Council.
11. Power to divert footpath at Barking.
12. Abolition of rights of way over certain level crossings.
13. As to bridges at Teignmouth.
14. As to reconstruction of bridge over Ravenet Street Battersea.
15. As to retention of telephone apparatus on abandonment of tramways etc.
16. For protection of Postmaster-General.
17. Incorporation of provisions of Acts of 1949 and 1950 relating to works

PART III

LANDS

Section

18. Power to acquire lands.
19. Acquisition of part only of certain properties.
20. Disregard of recent improvements and interests.
21. Extinction of rights of way.
22. Power to acquire easements only in certain cases.
23. Period for compulsory purchase of lands.
24. Power to use certain lands.
25. Incorporation of provisions of Act of 1949 relating to lands.

PART IV

PROTECTIVE PROVISIONS

26. Incorporation of protective provisions of Acts of 1949 and 1950.
27. For protection of electricity undertakers.
28. For protection of London County Council.
29. Crown rights.
30. Provision against danger to navigation.
31. For protection of Manchester Corporation.
32. For protection of Nottingham Corporation.
33. For protection of Southend-on-Sea Corporation.
34. For protection of Walsall Corporation.
35. For protection of Eastern and London Electricity Boards.
36. For protection of South Eastern Gas Board.
37. For protection of Southern Gas Board.
38. For protection of River Roding Catchment Board.

PART V

MISCELLANEOUS

39. Revival of powers and extension of time for construction of lock works at Newark.
40. Repeal of section 26 of Maidstone and Ashford Railway Act 1880.
41. Provision as to general railway Acts.
42. Saving for town and country planning.
43. Arbitration.
44. Costs of Act.

SCHEDULES:

First Schedule—The level crossings referred to in section 12 (Abolition of rights of way over certain level crossings) of this Act.

Second Schedule—The prescribed areas referred to in section 15 (As to retention of telephone apparatus on abandonment of tramways etc.) of this Act.

Third Schedule—Lands referred to in section 18 (Power to acquire lands) of this Act.

Fourth Schedule—Describing properties whereof portions only may be taken compulsorily.

Fifth Schedule—Describing properties in respect of which easements may be taken.

Sixth Schedule—Lands referred to in section 24 (Power to use certain lands) of this Act.