



CHAPTER xxxvi

An Act to empower the British Transport Commission to construct works and to acquire lands, to authorise the closing to navigation of portions of certain canals, to enact schemes for the redevelopment of parts of the Ashton Canal and the Dearne and Dove Canal, to extend the time for the compulsory purchase of certain lands and the completion of certain works, to confer further powers on the Commission, and for other purposes. [27th July, 1961]

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

And whereas it is the general duty of the Commission under the Transport Act, 1947, as amended by the Transport Act, 1953, (inter alia), to provide railway services for Great Britain, to provide or secure the provision of an adequate and properly co-ordinated system of passenger transport for the London Passenger Transport area and to provide, in such places and to such extent as may appear to the Commission to be expedient, facilities for

traffic on inland waterways and port facilities, due regard being had to efficiency, economy and safety of operation and to the needs of the public and of 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 the Commission are the owners of the Ashton Canal, the Birmingham Canal, the Dearne and Dove Canal, the Lancaster Canal and the Manchester, Bolton and Bury Canal:

And whereas there has not for some time past been any traffic on the portions of the said canals in this Act referred to and it is expedient that the Commission should be relieved of their obligations to maintain the same for navigation:

And whereas it is expedient that redevelopment schemes for parts of the Ashton Canal and the Dearne and Dove Canal should have effect as provided by this Act:

And whereas it is expedient that the powers to make agreements for conveying water along the Shropshire Union Canal conferred by the British Transport Commission Act, 1954, should be extended as provided by this Act:

And whereas it is expedient that the periods now limited for the compulsory purchase of certain lands and the completion of certain works should be 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 or used 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 in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the clerks of the county councils of the several counties and the town clerk of the county borough 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 Queen's most Excellent Majesty, by and

with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

PRELIMINARY

1.—(1) This Act may be cited as the British Transport Commission Act, 1961. Short and collective titles.

(2) The British Transport Commission Acts, 1947 to 1960, and this Act may be cited together as the British Transport Commission Acts, 1947 to 1961.

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

Division of Act into Parts.

Part I.—Preliminary.

Part II.—Works.

Part III.—Docks and inland waterways.

Part IV.—Lands.

Part V.—Protective provisions.

Part VI.—Miscellaneous.

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—

“ the Act of 1845 ” means the Railways Clauses Consolidation Act, 1845;

“ the Act of 1847 ” means the Harbours, Docks and Piers Clauses Act, 1847;

“ the Act of 1863 ” means the Railways Clauses Act, 1863;

“ the Act of 1947 ” means the Transport Act, 1947;

“ 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;

“ the council ” means the London County Council;

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

“ the jetty ” means Work No. 13;

PART I
—cont.

“ the Lands Clauses Acts ” means the Lands Clauses Acts as modified by the Lands Tribunal Act, 1949, the Land Compensation Act, 1961, and this Act;

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

“ the Minister ” means the Minister of Transport;

“ the tribunal ” means the Lands Tribunal;

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

(2) Unless the context otherwise requires, any reference in this Act to an Act of any of the years from 1949 to 1960 shall be construed as a reference to the British Transport Commission Act of that year.

(3) 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.

(4) All distances and lengths stated in any description of works, powers or lands shall be construed as if the words “ or thereabouts ” were inserted after each such distance and length and distances between points on a railway, river or waterway shall be taken to be measured along the railway, river or waterway, as the case may be.

(5) Unless the context otherwise requires, any reference in this Act to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Act.

Incorporation
of general
Acts.

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:—

(a) the Lands Clauses Acts, except sections 127 to 133 of the Lands Clauses Consolidation Act, 1845;

(b) the Act of 1845, except sections 7, 8, 9, 19, 20, 22, 23, 110, 111 and 143 thereof and Part I (relating to construction of a railway) and Part II (relating to extension of time) of the Act of 1863:

Provided that—

(i) for the purposes of the provisions of the Act of 1845 and the Act of 1863 as incorporated with this Act—

(A) the expression “ the company ” where used in the said incorporated provisions means the Commission;

(B) Works Nos. 1, 3, 4, 5, 6, 7, 12 and the lines of railway authorised by section 13 (Further works and powers) of this Act shall be deemed to be railways authorised by the special Act;

(ii) for the purposes of sections 16 and 30 to 44 of the Act of 1845 as incorporated with this Act Works Nos. 8, 9, 10, 11 and 14 shall be deemed to be railways authorised by the special Act;

(iii) the provisions of sections 18 and 21 of the Act of 1845 shall not extend to regulate the relations between the Commission and any other person in respect of any matter or thing concerning which those relations are regulated in any respect—

(A) by the provisions of Part II of the Public Utilities Street Works Act, 1950; or

(B) by the provisions of section 39 (For protection of gas water and electricity undertakers) of the Act of 1952 as incorporated with this Act;

(c) the Act of 1847, except sections 7, 8, 9, 11, 12, 13, 22, 25, 26, 49, 50, 79, 80 and 95 thereof:

Provided that—

(i) for the purposes of this Act the expressions “the harbour dock or pier” and “the harbour master”, where used in the incorporated provisions of the Act of 1847, mean the jetty and the dock master at Immingham respectively;

(ii) the provisions of sections 16 to 19 of the Act of 1847 shall not be in force except and to such extent as the Minister may require;

(iii) the confirming authority for the purposes of section 85 of the Act of 1847 shall be the Minister.

PART II

WORKS

5.—(1) 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 works hereinafter described with all necessary works and conveniences connected therewith:—

In the county of London—

Work No. 1 A widening (three hundred and thirty-two yards in length) of the railway between Tower Hill and Aldgate stations on the south-eastern side thereof commencing in the city of London at a point forty-three yards west of the eastern end of the station

Power to make works.
(Railway widening at Tower Hill.)

PART II
—cont.

- tunnel of Tower Hill Station, passing through the metropolitan borough of Stepney and terminating in the city of London at a point two yards south of the bridge carrying Fenchurch Street Station over the said railway;
- (Railway between Aldersgate and Moorgate.) Work No. 2 A railway (five hundred and ninety-two yards in length) wholly in the city of London, being a deviation of the Metropolitan railway, commencing by a junction with the said railway at the eastern end of Aldersgate and Barbican Station and terminating by a junction with the said railway at a point twenty-eight yards south-east of the bridge carrying Moor Lane over the said railway;
- (Ventilation subway at Westminster.) Work No. 3 A ventilating subway (one hundred and thirty-seven yards in length) in the city of Westminster commencing by a junction with the lift shaft at the disused Dover Street Station and terminating by a junction with Work No. 1 authorised by the Act of 1955 at a point under Mayfair Place;
- (Cable subway at Westminster.) Work No. 4 A cable subway (one hundred and thirty-nine yards in length) in the said city of Westminster commencing by a junction with the said lift shaft and terminating by a junction with the said Work No. 1 at a point under Mayfair Place;
- (Victoria Station tunnel enlargement.) Work No. 5 An enlargement of the tunnel of the District railway in the city of Westminster commencing at the eastern end of Victoria Station and terminating at a point twenty-five yards east thereof in the running tunnel of the said railway;
- (Gloucester Road Station tunnel enlargements.) Work No. 6 An enlargement of the tunnel of the District railway in the royal borough of Kensington commencing at the western end of Gloucester Road Station and terminating at a point seven yards west thereof in the running tunnel of the said railway;
- Work No. 7 An enlargement of the tunnel of the District railway in the said royal borough commencing at the eastern end of Gloucester Road Station and terminating at a point twenty yards east thereof in the running tunnel of the said railway:
- In the city and county borough of Exeter—
- (Diversion of water-courses at Exeter.) Work No. 8 A cut (four hundred and eighty-four yards in length), being a diversion of the river Exe, commencing at a point in the said river four hundred and fifty-eight yards north-east of Cowley Weir and terminating at the said weir;

Work No. 9 A cut (one hundred and twenty-nine yards in length) commencing at a point in the Leat Tail Race one hundred and sixty-five yards south-west of the head of the Leat Tail Race and terminating by a junction with Work No. 8 at a point three hundred and fifty-six yards north-east of Cowley Weir;

Work No. 10 A cut (one hundred and seventy-seven yards in length) commencing at a point in the Waste Channel two hundred and twenty-four yards west of the western end of the pump house of the Exeter Corporation Waterworks at Cowley and terminating by a junction with Work No. 11 at a point two hundred and seventy-four yards north-east of Cowley Bridge:

In the city and county borough of Exeter and in the county of Devon—

Work No. 11 A cut (four hundred and twenty-five yards in length) commencing in the city and county borough of Exeter by a junction with Work No. 9 at its commencement and terminating by a junction with the river Creedy at the boundary between the said city and county borough and the parish of Upton Pyne in the rural district of St. Thomas at a point one hundred and nine yards north-east of Cowley Bridge:

In the county of Monmouth and in the county of Gloucester—

Work No. 12 A reconstruction partly in the urban district of Chepstow and partly in the parish of Tidenham in the rural district of Lydney of the main span of the bridge carrying the railway between Chepstow and Gloucester over the river Wye: (Partial reconstruction of bridge at Chepstow.)

In the county of Lincoln, Parts of Lindsey—

Work No. 13 A jetty on the foreshore and bed of the river Humber adjacent to the parish of Immingham in the rural district of Grimsby commencing at the south-eastern end of the jetty No. 2 authorised by the Humber Commercial Railway and Dock Act, 1904, and extending in a south-easterly direction into the river Humber for a distance of one hundred and fifty-two yards: (Jetty extension at Immingham.)

In the county of Chester—

Work No. 14 A reconstruction, partly in the parish of Elton in the rural district of Congleton and partly in the urban district of Sandbach, of the bridge over the Trent and Mersey Canal known as Elton Moss Bridge. (Reconstruction of Elton Moss Bridge, Sandbach.)

(2) As from the completion of Works Nos. 8, 9, 10 and 11 the Commission may fill in so much of the existing watercourses

PART II
—cont.

shown on the deposited plans as lies between the points marked A and B, C and D, C and E and F and G and as will be rendered unnecessary by the said works.

(3) The bridge comprised in Work No. 12 shall be reconstructed with a clear headway above the level of high water at ordinary spring tides of not less than thirteen feet.

(4) Subject to the provisions of this Act, and within the limits of deviation, the Commission may in carrying out Work No. 14 make junctions with, and may alter the line or level of, any street or way interfered with by or contiguous to the said work and may alter and interfere with any steps, walls, gateways, railings, passages, pipes and pavements and may execute any works for the protection of any adjoining land or building.

(5) The Commission shall erect good and sufficient fences on each side of the reconstructed bridge comprised in Work No. 14 and on each side of the approaches to the reconstructed bridge and shall thereafter maintain all such fences in good and substantial condition.

Power to
open surface
of streets.

6.—(1) Subject to the provisions of this Act, the Commission may, for the purposes of constructing Works Nos. 1, 2, 5, 6 and 7 or some or one of them, enter upon, open, break up and interfere with so much of the surface of the streets referred to in the First Schedule to this Act as is within the limits of deviation.

(2) Before breaking up or interfering with any portion of the surface of the said streets under the powers of this section the Commission shall give to the Minister not less than fourteen days' previous notice of their intention so to do.

Power to
make trial
borings.

7. The Commission may make trial borings, at such places within the limits of deviation as they may think fit, for the purpose of ascertaining the nature of the soil:

Provided that—

(a) no land shall be entered for the purpose of making trial borings under this section unless the Commission, not less than seven days before the first entry and not less than twenty-four hours before any subsequent entry, have given notice in writing to the owner and occupier of the land in manner provided by section 285 of the Public Health Act, 1936; and

(b) no trial borings shall be made under the powers of this section in the carriageway of any highway without the consent of the highway authority, but such consent shall not be unreasonably withheld and any question as to whether or not such consent has been unreasonably withheld shall be determined by the Minister.

8.—(1) For the purposes of subsection (8) of section 16 of the Transport Act, 1953, and of any scheme under that section, the railway comprised in Work No. 2 shall be deemed to be a railway the operation of which formed part of the passenger transport services provided at the passing of the said Act of 1953 by the London Transport Executive, and references in section 106 of the London Passenger Transport Act, 1933, or in any regulations made thereunder, to premises or vehicles belonging to the London Passenger Transport Board shall be deemed to include a reference to the said railway and the lands, works, premises and vehicles of the Commission used in connection therewith.

PART II
—cont.
As to interpretation of certain enactments in relation to Work No. 2.

(2) For the purpose of any provisions of the London Passenger Transport Acts, 1933 to 1947, and of any other special Act which at the passing of this Act are applicable generally to railways formerly comprised in the undertaking of the Metropolitan Railway Company, Work No. 2 shall be deemed to have been comprised in the said undertaking.

9. The Commission may, in connection with the jetty, from time to time construct or place and maintain in, under or over any of the lands delineated on the deposited plans relating to the jetty and described in the deposited book of reference, all such works and conveniences subsidiary or ancillary to the jetty and all such appliances, machinery and apparatus as they may from time to time deem necessary or convenient for any purpose of or in connection with the jetty or the accommodation of vessels and traffic thereat.

Power to make subsidiary works.

10. The Commission may, from time to time, deepen, dredge, scour, cleanse, alter and improve the bed, shores and channels of the river Humber adjoining or near to the jetty for the purpose of affording uninterrupted means of access thereto and may use, appropriate or dispose of the materials from time to time dredged by them from the river Humber:

Power to dredge in Humber.

Provided that no materials so dredged by them shall be deposited below high-water mark of ordinary spring tides, except in such places and in accordance with such restrictions or regulations as may be approved or prescribed by the Minister, nor shall such materials be deposited in any place within the jurisdiction of the Humber Conservancy Board without the consent of the said board.

11. Notwithstanding anything in section 6 (Power to deviate) of the Act of 1949 as incorporated with this Act, the Commission shall not in the construction of Work No. 13 deviate from the situation thereof shown on the deposited plans to any extent in a shoreward direction exceeding twenty-five yards or such greater extent as may be sanctioned by the Minister.

Restriction on deviation in construction of Work No. 13.

PART II
—cont.Period for
completion
of railway.

12. If Work No. 2 is not completed within the period expiring on the thirty-first day of December, nineteen hundred and sixty-seven then, on the expiration of that period, the powers by this Act granted to the Commission for making and completing the said work or otherwise in relation thereto shall cease, except as to so much thereof as shall then be completed.

Further
works and
powers.

13.—(1) Subject to the provisions of this Act (and in so far as the same are shown on the deposited plans and sections in the lines or situations and according to the levels as shown), the Commission may make and maintain the works described in this section with all necessary works and conveniences connected therewith and may exercise the powers hereinafter mentioned:—

(a) In the county of the Isle of Ely—

In the urban district of March—

(i) they may make and maintain two additional lines of railway across and on the level of Elm Road at the place where the said road is crossed on the level by the railway at March Station;

(ii) they may stop up and discontinue the footpath crossing the railway at the said level crossing by means of a footbridge between the points marked “ E ” and “ F ” on the deposited plans;

(b) In the county of Middlesex—

In the borough of Enfield—

they may stop up and discontinue—

(i) so much of South Street as is situate within the line marked “ Limit of roadway to be stopped up ” on the deposited plans;

(ii) so much of Duck Lees Lane as is situate within the line marked “ Limit of roadway to be stopped up ” on the deposited plans.

(2) The stopping up under this section of parts of South Street and Duck Lees Lane in the borough of Enfield shall not take place until a new road between Lea Valley Road and Nags Head Road, carried over the railway by means of a bridge, has been constructed and opened for public use.

(3) Notwithstanding the provisions of section 47 of the Act of 1845, as incorporated with this or any other enactment, the Commission may, with the consent in writing of the Minister (which consent the Minister may amend or revoke) and subject to such conditions and requirements as the Minister may from time to time lay down, instead of gates instal at or near the level crossing in the urban district of March known as Station Crossing and shall thereafter maintain such good and sufficient lifting barriers and other works and such appliances and traffic signs in connection therewith as shall, in the opinion of the Minister, be necessary for the safety and protection of the public.

(4) Notwithstanding the provisions of section XXV (Company to erect a Station or Lodge at the Point of crossing, and abide by the Regulations of the Board of Trade) of the Staines Wokingham and Woking Railway Act, 1853, the Commission shall not be required to maintain a station or lodge at the level crossing in the urban district of Egham known as Rusham Crossing and they may for such periods as they think fit, between the hours of ten of the clock in the evening of any day and six of the clock in the morning of the next succeeding day, close the road over the said level crossing:

Provided that such closure shall not extend to the wicket gates provided on both sides of the railway at the said level crossing for the convenience of persons on foot.

(5) The Commission may for such periods as they think fit, between the hours of eleven of the clock in the evening of any day and six of the clock in the morning of the next succeeding day, close the road over the level crossing in the urban district of Oakham known as Braunston Road Crossing.

14.—(1) As from the passing of this Act, all rights of way over the level crossing referred to in Part I of the Second Schedule to this Act shall be extinguished. As to certain level crossings.

(2) As from the passing of this Act, 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 as a bridleway or on foot, shall be extinguished and the Commission shall provide and maintain on both sides of the railway at each of the said level crossings gates for the convenience of persons on horseback or leading horses and persons on foot.

(3) As from the passing of this Act, all rights of way over the level crossings referred to in Part III of the said schedule, other than a right of way for all persons to use those level crossings on foot, shall be extinguished and the Commission shall provide and maintain on both sides of the railway at each of the said level crossings wicket gates or stiles for the convenience of persons on foot.

(4) The provisions of the Highway (Railway Crossings) Act, 1839, of section 9 of the Railway Regulation Act, 1842, of section 47 of the Act of 1845 and of sections 5, 6 and 7 of the Act of 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 the said schedule shall cease to apply to those level crossings.

(5) The level crossings referred to in the said schedule (including the gates thereof, other than the gates provided in pursuance of subsections (2) and (3) of this section) shall be deemed for all

PART II
—cont

purposes to be works provided by the Commission at the passing of this Act pursuant to section 68 of the Act of 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.

(6) Any person who suffers loss by the extinguishment under this section of such private rights of way (if any) as may exist over the level crossings referred to in the said schedule 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.

Incorporation of provisions of Acts of 1949, 1950, 1957 and 1960 relating to works.

15. The following provisions of the under-mentioned 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);

The Act of 1950—

Section 14 (Provision as to repair of roads and footpaths);

The Act of 1957—

Section 17 (Use of sewers, etc., for removing water);

The Act of 1960—

Section 14 (Stopping up roads and footpaths without providing substitute);

Section 15 (Stopping up roads and footpaths in case of diversion or substitution).

PART III

DOCKS AND INLAND WATERWAYS

Interpretation of Part III.

16. In this Part of this Act the expression “the waterways” means those portions of the several waterways named in the first column of the Third Schedule to this Act and described in the second column of the said schedule, which waterways were authorised by the enactments specified in the third column of the said schedule:

Provided that in section 19 (Power to make agreements), section 20 (Prevention of nuisance) and section 21 (Application of

section 33 of Town and Country Planning Act, 1947) of this Act the said expression does not include any part of the waterways to which a scheme referred to in section 18 (Redevelopment schemes for parts of Dearne and Dove Canal and Ashton Canal) of this Act applies.

PART III
—cont.

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

Closing to
navigation
of certain
waterways.

(a) all rights of navigation along, on, or over, the waterways and all rights of user by barges or other boats of the waterways shall cease and be extinguished; and

(b) the Commission shall cease to be under any obligation (whether statutory or otherwise) to keep the waterways open for navigation, or to maintain the same in a navigable condition, or to preserve the supplies of water thereto for the purposes of navigation, or to supply the waterways with water for those purposes;

but save as aforesaid nothing in this section shall be deemed to prejudice or affect any existing rights, powers or obligations in respect of the waterways.

(2) Any person who suffers loss by the extinguishment of any private right under 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.

18. The provisions of the schemes set out in the Fourth and Fifth Schedules to this Act shall have effect respectively in relation to the parts of the Dearne and Dove Canal and of the Ashton Canal therein described.

Redevelop-
ment schemes
for parts of
Dearne and
Dove Canal
and Ashton
Canal.

19.—(1) The Commission on the one hand and any local authority, highway authority, statutory water undertaker, or river board on the other hand may enter into and carry into effect agreements with respect to the maintenance of the waterways, or any part thereof, or any works connected therewith and belonging to or maintainable by the Commission, or for the transfer to and vesting in any such contracting party of any of the waterways, or any part thereof, or of any such works as aforesaid and any such agreement may provide for the transfer to any such contracting party of all or any of the powers and obligations of the Commission in respect of the waterways or works transferred and vested as aforesaid.

Power to
make
agreements.

(2) A statutory water undertaker shall not exercise any of the powers of this section for the purposes of its water undertaking except with the consent of the Minister of Housing and Local Government.

(3) A transfer to or vesting in a river board in pursuance of an agreement made under this section of any part of any of the

PART III
—cont.

waterways, or of any of the powers and obligations of the Commission in respect thereof, shall not take effect until the Minister of Agriculture Fisheries and Food has, in accordance with the provisions of section 6 of the River Boards Act, 1948, varied the map as approved by him under that section so as to constitute such part of the waterways a part of the main river referred to in that section.

(4) In this section—

“statutory water undertaker” means any company, local authority, board, committee or other persons supplying water under an enactment;

“local authority” means the council of the county, county borough, or county district, in which any part of the waterways is situate.

Prevention
of nuisance.

20. The waterways shall be deemed to be a watercourse for the purposes of section 259 of the Public Health Act, 1936, and the county council of the administrative county within which any part of the waterways is situate may, in addition to a local authority as defined in section 1 of that Act, enforce the provisions of Part III of that Act where they apply by virtue of this section.

Application of
section 33
of Town and
Country
Planning
Act, 1947.

21.—(1) For the purposes of section 33 of the Town and Country Planning Act, 1947, each of the waterways shall be deemed to be a vacant site, provided that this section shall cease to apply to any part of the waterways the use of which is changed after the passing of this Act pursuant to planning permission in that behalf granted under Part III of the said Act.

(2) For the purposes of the said section 33, as extended to the waterways by this section, the council of a county district in whose district any part of the waterways is situate shall, in addition to the local planning authority, be entitled to enforce the provisions of the said section 33 as so extended.

Amending
provisions as
to conveyance
of water along
Shropshire
Union Canal.

22.—(1) In this section—

“the board” means the Mid and South East Cheshire Water Board;

“the canal” means the Shropshire Union Canal of the Commission;

“day” means a period of twenty-four hours reckoned from nine of the clock in the morning;

“the Order” means the Mid and South East Cheshire Water Board Order, 1952;

“the prescribed quantity” means—

(a) four million four hundred thousand gallons on any day next following a day on which the flow of water measured at the Bala Gauging Station has exceeded one hundred million gallons;

(b) two million two hundred thousand gallons on any day next following a day on which the flow of water so measured has exceeded fifty million gallons and has not exceeded one hundred million gallons;

(c) on any other day, nil.

(2) In addition to the powers conferred upon them by section 13 (Agreements for conveyance of water along Shropshire Union Canal) of the Act of 1954 but, subject to the provisions of the next following subsection, the Commission and the board may enter into and carry into effect agreements for the taking by the Commission into the canal from the river Dee by means of their works situate in the parish of Llantysilio in the county of Denbigh a quantity of water not exceeding in any day the prescribed quantity and for the abstraction by the board from the canal or the canal reservoir at Hurleston in the county of Chester of such quantities of water as may from time to time be agreed.

(3) The quantity of water taken by the Commission into the canal on any day in pursuance of an agreement made under this section shall not be taken into account in measuring the quantity of water abstracted by them from the river Dee for the purposes of section 4 (Limitation on abstraction of water from river Dee) of the London Midland and Scottish Railway Act, 1944, but shall be taken into account for the purposes of the Order and of the Dee and Clwyd River Board Act, 1951, as if it had been abstracted by the board from the river Dee under the powers of the Order.

(4) The provisions of section 8 (Power to take water from Ellesmere Canal and Hurleston Reservoir) of the Mid and South East Cheshire Water Board Order, 1956, other than the proviso thereto, shall extend and apply for the purpose of enabling the board to carry into effect any agreement made under this section.

23.—(1) The limits within which the powers of the dock master may be exercised under and subject to the provisions of the Act of 1847, as incorporated with this Act, shall extend to a distance of two hundred yards in every direction from the jetty. Limits of dock master's jurisdiction.

(2) The powers conferred by this section shall be limited to vessels going to, moored at or departing from the jetty and shall not be exercised so as to affect vessels navigating or at anchor in the channels of the river Humber unless such vessels shall obstruct the access to the jetty.

24. For all purposes of or in connection with the jurisdiction of the justices acting for the Grimsby county petty sessional division in the county of Lincoln (Parts of Lindsey) the jetty shall be deemed to be wholly within the parish of Immingham in the rural district of Grimsby. As to jurisdiction of justices.

PART III
—cont.As to charges
and byelaws
at jetty, etc.

25. For the purposes of section 19 (As to regulation of traffic in the Humber) of the Humber Commercial Railway and Dock Act, 1904, of section 26 (As to charges at Salt End and Immingham jetties) of the Act of 1956 and of any byelaws now in force in relation to the dock and jetties Nos. 1 and 2 at Immingham authorised by the said Act of 1904, the jetty shall be deemed to form part of the said jetty No. 2.

Traffic
offences on
dock roads.

26.—(1) In this section—

“motor vehicle” has the same meaning as in the Road Traffic Act, 1960;

“dock road” means any road, pier, wharf, quay, bridge, work or land which is situate within any dock or harbour premises of the Commission (not being a road as defined by section 257 of the Road Traffic Act, 1960);

“restricted dock road” means a dock road at the usual entrances or approaches to which notices are conspicuously exhibited warning all persons that a maximum speed limit of ten miles per hour is in force for motor vehicles using such dock road.

(2) The Road Traffic Act, 1960, shall have effect as if, in the provisions thereof referred to in this section, the expression “road” included a dock road, and any person who commits an offence under any of those provisions, as extended by this section, shall be liable to be dealt with in all respects as if the offence had been committed under those provisions on a road as defined by section 257 of that Act, and all the provisions of that Act so far as applicable (including, without prejudice to the generality of the foregoing, section 250 thereof) shall apply accordingly.

(3) The provisions of the Road Traffic Act, 1960, referred to in this section are:—

Section 1 (Causing death by reckless or dangerous driving);

Section 2 (Reckless, and dangerous, driving generally);

Section 3 (Careless, and inconsiderate, driving);

Section 6 (Driving, or being in charge, when under influence of drink or drugs);

Section 9 (Reckless, and dangerous, cycling);

Section 10 (Careless, and inconsiderate, cycling);

Section 11 (Cycling when under influence of drink or drugs);

Section 13 (Restriction on carriage of persons on bicycles);

Section 14 (Drivers to comply with traffic directions);

- Section 15 (Pedestrians to comply with directions to stop given by constables regulating vehicular traffic);
- Section 16 (Leaving vehicles in dangerous positions);
- Section 24 (Speed limits for vehicles of different classes or descriptions);
- Section 77 (Duty to stop, and furnish particulars, in case of accident);
- Section 97 (Minimum age for driving) as amended by the Road Traffic (Driving of Motor Cycles) Act, 1960;
- Section 98 (Drivers of motor vehicles to have driving licences);
- Section 110 (Offence of applying for or obtaining licence, or driving, while disqualified);
- Section 201 (Users of motor vehicles to be insured or secured against third party risks);
- Section 218 (Penalisation of tampering with motor vehicles);
- Section 219 (Penalisation of holding or getting on to vehicle in order to be towed or carried);
- Section 223 (Power of police to stop vehicles);
- Section 225 (Power of police constables to require production of driving licences);
- Section 226 (Power of police constables to obtain names and addresses of drivers, and others, and to require production of evidence of insurance or security and test certificates);
- Section 230 (Duty of driver, in case of accident involving injury to another, to produce evidence of insurance or security or to report accident):

Provided that, if no duty is chargeable under the Vehicles (Excise) Act, 1949, in respect of a motor vehicle, by reason only that the vehicle is used exclusively on roads which are not public roads within the meaning of that Act, sections 97, 98, 110, 201, 225, 226 and 230 of the Road Traffic Act, 1960, shall not apply in respect of the vehicle while it is being driven, or to any person while driving it on a dock road.

- (4) It shall not be lawful for a person to drive a motor vehicle—
- (a) on a restricted dock road at a speed exceeding ten miles per hour; or
- (b) on any other dock road at a speed exceeding twenty miles per hour;

and a person acting in contravention of this subsection shall be liable to be dealt with in accordance with section 4 of the Road

PART III
—cont.

Traffic Act, 1960, as if the offence had been committed on a road as defined by section 257 of that Act and all the provisions of that Act (including, without prejudice to the generality of the foregoing, sections 25 and 250 thereof) shall apply accordingly.

(5) The provisions of the last preceding subsection shall have effect notwithstanding that a speed limit in excess of ten or twenty miles per hour (as the case may be) may for the time being have been fixed by, or under, section 24 of the Road Traffic Act, 1960, in relation to motor vehicles of any class or description.

(6) For the purposes of the Road Traffic Act, 1960, as extended and applied by this section, the expression “chief officer of police,” where used in that Act, shall include the chief police officer of the Commission.

(7) Section 27 (Driving offences on dock roads) of the Act of 1956, and section 20 (Amendment of section 27 of Act of 1956) of the Act of 1959, are hereby repealed.

PART IV

LANDS

Power to
acquire
lands.

27.—(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 Sixth 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.

Acquisition
of part only
of certain
properties.

28.—(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 Seventh 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:—

PART IV
—cont.

(a) In this section—

(i) references to the owner of any property are references to all persons having an interest in that property; and

(ii) any reference to the severance of a portion of any property from the remainder of such property without material detriment thereto shall, in the case where such portion is part of a park or garden belonging to a house, be construed as a reference to the severance of such portion without seriously affecting the amenity or convenience of the house to which the park or garden belongs:

(b) Unless, within twenty-one days after the service of notice to treat in respect of a specified portion of any of the said properties, a person who is an owner notifies the Commission in writing that he alleges that such portion cannot be severed from the remainder of the property without material detriment thereto, the owner 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 any person who is an owner, by severance or otherwise:

(c) If within such twenty-one days any person who is an 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

PART IV
—cont.

for the portion taken by them, including compensation for any damage sustained by a person who is an owner, by severance or otherwise, as shall be awarded by the tribunal:

- (e) If the tribunal determines that the portion of the property specified in the notice to treat can be severed from the remainder without material detriment thereto, the tribunal may determine and order that the costs, charges and expenses incurred by any person who gave notice under paragraph (c) of this subsection 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 him:
- (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 any person who is an 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 any person who is an 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 to treat served under this Act in respect of any portion of the said properties.

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

Disregard
of recent
improvements
and interests.

(a) any improvement or alteration made, or building erected, after the fifth day of December, nineteen hundred and sixty, 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.

30.—(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
private rights
of way.

(2) Any person who suffers loss by the extinguishment of any right under 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.

31.—(1) 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 lands described in the Eighth 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.

(2) (a) If, in any case where the Commission require an easement or right of using the subsoil of any of the lands described in the said schedule, they also require to take, use and pull down or open any cellar, vault, arch or other construction forming part of any such lands, they may enter upon, take and use such cellar, vault, arch or other construction for the purposes of the works and (subject to the provisions of this Act) the provisions of the Lands Clauses Acts shall extend and apply in relation to the purchase thereof as if such cellar, vault, arch or other construction were lands within the meaning of those Acts.

PART IV
—cont.

(b) Section 28 (Acquisition of part only of certain properties) of this Act shall apply in respect of the acquisition by the Commission under this subsection of any cellar, vault, arch or other construction as if the property of which it forms part were described in the Eighth Schedule to this Act.

Easements
only to be
acquired
under certain
lands.

32.—(1) In this section “the specified lands” means the lands numbered on the deposited plans 2, 4, 5, 6, 7, 8 and 11 in the city of Westminster.

(2) The Commission shall not acquire compulsorily, under the powers of this Act, any part of the specified lands but they may acquire, within the limits of lateral and vertical deviation prescribed by this Act in respect of Works Nos. 3 and 4, such easements or rights under the specified lands as they may require for the purpose of constructing, maintaining, renewing and using Works Nos. 3 and 4, and any necessary works and conveniences connected therewith, without being obliged or compellable to acquire any greater interest in, under or over the specified lands 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.

Period for
compulsory
purchase
of lands and
easements.

33. The powers of the Commission for the compulsory purchase of the lands and easements which they are authorised to acquire by this Part of this Act shall cease on the thirty-first day of December, nineteen hundred and sixty-four.

Incorporation
of provisions
of Acts of
1949 and 1959
relating to
lands.

34.—(1) The following provisions of the undermentioned Acts are incorporated with and form part of this Part of this Act:—

The Act of 1949—

Section 25 (Power to expedite entry);

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

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

The Act of 1959—

Section 44 (Correction of errors in deposited plans and book of reference);

Section 46 (Power to enter for survey or valuation).

(2) The provisions of section 25 (Power to expedite entry) of the Act of 1949 shall extend and apply in respect of any easement or right that may be acquired compulsorily under this Act in like manner as those provisions apply to any land that may be so acquired.

(3) The provisions of section 46 (Power to enter for survey or valuation) of the Act of 1959, as incorporated with this Act, shall have effect as if the power to enter for surveying and valuing the land referred to in that section extended and applied to land affected by the construction of Works Nos. 1 to 7.

PART IV
—cont.

PART V

PROTECTIVE PROVISIONS

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

Incorporation
of protective
provisions
of Acts of
1949, 1952,
1955 and 1958.

The Act of 1949—

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

The Act of 1952—

Section 39 (For protection of gas, water and electricity undertakers);

The Act of 1955—

Section 36 (For protection of Postmaster General);

The Act of 1958—

Section 29 (As to works within City of London):

Provided that for the purposes of this Act the references in the said section 36 to Works Nos. 1 to 13 authorised by the Act of 1955 shall be construed as references to Works Nos. 1 and 2.

36. Except as provided in section 26 (Traffic offences on dock roads) of this Act, nothing in this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown and in particular, and without prejudice to the generality of the foregoing, nothing in this Act authorises the Commission to take, use or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary or any land, hereditaments, subjects or rights of whatsoever description belonging to Her Majesty in right of Her Crown, and under the management of the Crown Estate Commissioners or vested in, or in the occupation of, the Minister of Works, without the consent in writing of the said commissioners or the said Minister (as the case may require) first had and obtained for that purpose.

Crown rights.

37.—(1) Any electrical works or apparatus constructed, erected, laid, maintained or used in pursuance of section 16 of the Act of 1845 (as incorporated with this Act) shall be so constructed, erected or laid and so maintained, worked and used

For protection
of Postmaster
General.

PART V
—cont.

as to prevent interference with any telegraphic line belonging to or used by the Postmaster General or with telegraphic communication by means of any such line.

(2) Where any road, street or lane or length or portion of a road, street or lane is stopped up under the powers of this Act the following provisions shall, unless otherwise agreed in writing between the Commission and the Postmaster General, have effect in relation to so much of any telegraphic line belonging to or used by the Postmaster General as is under, in, upon, over, along or across the land which by virtue of the provisions of this Act ceases to be a highway in consequence of such stopping up (in this subsection referred to as "the affected line"), that is to say:—

- (a) The power of the Postmaster General to remove the affected line shall be exercisable notwithstanding the stopping up, so however that the said power shall not be exercisable, as respects the whole or any part of the affected line, after the expiration of a period of three months from the date of the sending of the notice referred to in the next following subsection unless before the expiration of that period the Postmaster General has given notice to the Commission of his intention to remove the affected line, or that part thereof, as the case may be;
- (b) The Postmaster General may by notice in that behalf to the Commission abandon the affected line or any part thereof, and shall be deemed, as respects the affected line or any part thereof, to have abandoned it at the expiration of the said period of three months unless before the expiration of that period he has removed it or given notice of his intention to remove it;
- (c) In any case where the Postmaster General has given notice to the Commission under paragraph (a) of this subsection of his intention to remove the affected line the Commission may at any time after the receipt of such notice send by post to the Postmaster General a notice requiring the affected line to be removed or abandoned within such period as may be specified in the notice (not being less than six months from the date on which the same was sent) and the Postmaster General shall before the expiration of the period so specified either remove the affected line or give notice to the Commission of its abandonment;
- (d) The Postmaster General shall be entitled to recover from the Commission the expense of providing, in substitution for the affected line and any telegraphic line connected

therewith which is rendered useless in consequence of the removal or abandonment of the affected line, a telegraphic line in such other place as he may reasonably require;

PART V
—cont.

(e) Where under paragraph (b) or paragraph (c) of this subsection the Postmaster General has abandoned the whole or any part of the affected line, it shall vest in the Commission and the provisions of the Telegraph Acts, 1863 to 1954, shall not apply in relation to it as respects anything done or omitted after the abandonment thereof.

(3) As soon as practicable after the stopping up referred to in subsection (2) of this section has become effective and the land therein referred to has ceased to be a highway the Commission shall send by post to the Postmaster General a notice informing him of such stopping up.

(4) In this section “telegraphic line” has the same meaning as in the Telegraph Act, 1878.

38. The Commission shall not under the powers of this Act, except with the consent in writing of the Postmaster General, enter upon, take or use the lands or any part of the lands numbered on the deposited plans 60 in the city of London or acquire any easement or right in, under or over the same: As to lands of
Postmaster
General.

Provided always that nothing in this section shall prevent the acquisition by the Commission of any estate, interest, title, easement or other right vested in any person other than the Postmaster General at any time subsisting in, under or over the said lands or any part thereof.

39.—(1) Subject to the provisions of this Act, any work authorised by this Act shall only be constructed, so far as the same shall be on, under or over tidal waters, or tidal lands below high-water mark of ordinary spring tides, in accordance with plans and sections approved by the Minister, and subject to such conditions and restrictions as the Minister may prescribe, before any such work is begun. Works below
high-water
mark to be
subject to
approval of
Minister.

(2) Any alteration or extension of any such work shall be subject to the like approval.

(3) If any such work be commenced or completed contrary to the provisions of this section, the Minister may abate and remove the same and restore the site thereof to its former

PART V
—cont.

condition at the cost of the Commission and the amount of such cost shall be a debt due from the Commission to the Crown and shall be recoverable either as a debt due to the Crown or, where the amount does not exceed twenty pounds, by the Minister summarily as a civil debt.

Survey of
works by
Minister.

40. If at any time the Minister deems it expedient for the purposes of this Act to order a survey and examination of any work constructed under the powers of this Act which shall be on, under or over tidal waters, or tidal lands below high-water mark of ordinary spring tides, or of the site upon which it is proposed to construct any such work, the Commission shall defray the expenses of the survey and examination and the amount thereof shall be a debt due from the Commission to the Crown and shall be recoverable either as a debt due to the Crown or, where the amount does not exceed twenty pounds, by the Minister summarily as a civil debt.

Lights on
works during
construction.

41.—(1) The Commission shall at, or near, such part of any work constructed under the powers of this Act as shall be below high-water mark of ordinary spring tides during the whole time of the construction, alteration or extension of the same exhibit and keep burning every night, from sunset to sunrise, such lights (if any), and take such other steps, for the prevention of danger to navigation as the Minister shall, from time to time, require or approve.

(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 fine not exceeding twenty pounds and, in the case of a continuing offence, to an additional fine not exceeding two pounds for every day on which, after conviction thereof, they so fail.

Permanent
lights on
works.

42.—(1) After completion of such part of any work authorised by this Act as shall be below high-water mark of ordinary spring tides, the Commission shall exhibit and keep burning thereon every night, from sunset to sunrise, such lights (if any), and take such other steps for the prevention of danger to navigation, as the Corporation of Trinity House of Deptford Strond or, in the case of Work No. 13, the Humber Conservancy Board shall, from time to time, direct.

(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 fine not exceeding twenty pounds and, in the case of a continuing offence, to an additional fine not exceeding two pounds for every day on which, after conviction thereof, they so fail.

43.—(1) Where any work constructed under the powers of this Act, situate wholly or partially on, under or over tidal waters, or tidal lands below high-water mark of ordinary spring tides, is abandoned, or suffered to fall into decay, the Minister may by notice in writing either require the Commission, at their own expense, to repair and restore such part of such work as is situate below high-water mark of ordinary spring tides, or any portion thereof, or require them to abate or remove the same and restore the site thereof to its former condition to such an extent, and within such limits, as the Minister may think proper.

PART V
—cont.

Abatement
of works
abandoned
or decayed.

(2) Where any part of any such work which has been abandoned or suffered to fall into decay is situate above high-water mark of ordinary spring tides and is in such condition as to interfere, or to cause reasonable apprehension that the same may interfere, with the right of navigation, or other public rights over the foreshore, the Minister may include any such part of such work, or any portion thereof, in any notice under this section.

(3) If, during the period of thirty days from the date when the notice is served upon the Commission, they have failed to comply with such notice the Minister may execute the works required to be done by the notice at the expense of the Commission and the amount of such expense shall be a debt due from the Commission to the Crown and shall be recoverable either as a debt due to the Crown or, where the amount does not exceed twenty pounds, by the Minister summarily as a civil debt.

44.—(1) In case of injury to, or destruction or decay of any work authorised by this Act, 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 of Deptford Strond or, in the case of Work No. 13, by the Humber Conservancy Board and shall apply to the said corporation, or the Humber Conservancy Board (as the case may be), for directions as to the means to be taken.

Provision
against
danger to
navigation.

(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 fine not exceeding ten pounds and, in the case of a continuing offence, to an additional fine 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.

PART V
—cont.

For protection of
Cheshire
County
Council and
Sandbach
Urban
District
Council.

45. For the protection of the county council of the administrative county of the county palatine of Chester (in this section referred to as “the county council”), and the council of the urban district of Sandbach (in this section referred to as “the urban council”) the following provisions shall, unless otherwise agreed in writing between the Commission and the county council and the urban council, apply and have effect:—

(1) In this section—

“the bridge” means Work No. 14;

“the councils” means the county council and the urban council:

(2) In constructing the bridge the Commission shall—

(a) construct it of such a strength as to comply with the Ministry of Transport Standard Loading for Highway Bridges;

(b) not deviate by more than two feet either upwards or downwards from the levels shown on the deposited sections;

(c) not make trial borings in any part of Oakwood Lane, Plant Lane or Moston Road (otherwise known as Moss Lane);

(d) not construct or alter the bridge or any part of Oakwood Lane, Plant Lane or Moston Road so that—

(i) the gradient west of the centre of the bridge is steeper than one in seven point seven; or

(ii) the gradient east of the centre of the bridge is steeper than one in fifteen; or

(iii) the clear width between the parapets of the bridge is less than fourteen feet, or the width of the carriageway is less than twelve feet, measured in each case on the square with Moston Road; or

(iv) the carriageway of any part of Oakwood Lane, Plant Lane or Moston Road is of less width than the existing carriageway at that part:

(3) If after the construction of the bridge the county council desire to widen Oakwood Lane or Plant Lane or the urban council desire to widen Moston Road, the Commission shall grant to the county council or the urban council (as the case may be) all reasonable facilities necessary for that purpose:

(4) (a) Not less than twenty-eight days before inviting tenders for the construction of the bridge the Commission shall submit to the councils for their reasonable approval

plans, sections and specifications of the works proposed therein, the manner of the construction thereof and of the alterations to and reconstructions of Oakwood Lane, Plant Lane and Moston Road proposed to be executed in connection therewith;

- (b) If either of the councils 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, that council shall be deemed to have approved thereof:
- (5) 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 councils 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; and all such works shall be constructed under the superintendence of the surveyor of the county council or (in the case of alterations to or reconstructions of Moston Road) the surveyor of the urban council, if after reasonable notice from the Commission the appropriate surveyor shall choose to attend, and to his reasonable satisfaction:
- (6) The Commission in constructing and maintaining the bridge or any works in connection therewith shall—
- (a) so far as reasonably practicable keep open some part of Oakwood Lane, Plant Lane and Moston Road so that all traffic that may reasonably require to use those highways may pass over the Trent and Mersey Canal from Oakwood Lane or Plant Lane to Moston Road and vice versa;
- (b) not unreasonably interrupt the traffic passing along Oakwood Lane, Plant Lane and Moston Road; and
- (c) make good all damage or injury whatsoever which shall happen or arise to Oakwood Lane, Plant Lane or Moston Road by reason or in consequence of the construction of the works referred to in this paragraph:
- (7) The Commission shall during the execution and until the completion of any such works as are referred to in paragraph (6) of this section make and carry into effect such arrangements for lighting and watching (including the provision and working of traffic signs or light signals

PART V
—cont.

or flag signals) the same and any portion of Oakwood Lane, Plant Lane or Moston Road which may be affected or interfered with thereby, as may—

(a) in the opinion of the county council be reasonably necessary to prevent danger or accident to persons and vehicles using Oakwood Lane and Plant Lane; and

(b) in the opinion of the urban council be reasonably necessary to prevent danger or accident to persons and vehicles using Moston Road:

- (8) The Commission shall repay to the county council or the urban council (as the case may be) all reasonable costs, charges and expenses incurred by that council in, or in connection with, the execution of such works in, on or under Oakwood Lane, Plant Lane or Moston Road as it may be necessary for that council to execute in consequence of any works executed by the Commission under the powers conferred by this Act:
- (9) Any difference arising between the Commission and the county council or the urban council under this section (other than a difference as to the construction of this section) shall be settled by arbitration.

For protection
of Devon
County
Council
and Exeter
Corporation.

46. For the protection of the county council of the administrative county of Devon (in this section referred to as "the county council") and the mayor, aldermen and citizens of the city and county of the city of Exeter (in this section referred to as "the corporation") the following provisions shall, unless otherwise agreed in writing between the Commission on the one hand and the county council and the corporation on the other, apply and have effect:—

(1) In this section—

"authorised work" means—

(a) Work No. 8, Work No. 9, Work No. 10 or Work No. 11 or any work (whether temporary or permanent) forming part of or constructed in connection with any of the said works under the powers of this Act;

(b) the work of filling in the existing watercourses between the points marked A and B, C and D, C and E, and F and G on the signed plan and any work carried out in connection therewith under the powers of this Act;

and includes the maintenance or renewal of any authorised work;

“the protected authorities” means the county council and the corporation;

“Cowley Bridge (Creedy)” means the bridge spanning the river Creedy known as Cowley Bridge and “Cowley Bridge (Exe)” means the bridge spanning the river Exe also known as Cowley Bridge;

“the signed plan” means the plan signed in quintuplicate by the Lord Merthyr, the chairman of the Committee of the House of Lords to which the Bill for this Act was referred, of which one copy has been deposited in the office of the Clerk of the Parliaments, one copy in the Private Bill Office of the House of Commons, one copy at the principal office of the Commission, one copy with the clerk of the Devon River Board and one copy with the town clerk of Exeter:

(2) If by reason or arising out of—

(a) the increased flow of the river Creedy due to the construction of the authorised works;

(b) the construction, maintenance, repair or alteration of an authorised work; or

(c) the failure of that work or of the Commission to maintain it;

damage is done to Cowley Bridge (Creedy) or its structure is weakened, the protected authorities after giving notice to the Commission that they propose to repair the bridge and restore it to a proper standard of safety and efficiency may after repairing and restoring the bridge recover from the Commission the reasonable cost (including a proper proportion of the overhead charges of the protected authorities) of restoring the bridge to the standard of safety and efficiency in which it was immediately before such damage or weakening, being a standard which in default of agreement shall be settled by arbitration:

(3) Any additional expense due to either of the factors mentioned in sub-paragraphs (a) and (b) of paragraph (2) of this section which may be reasonably incurred by the county council or the corporation in maintaining the part of Cowley Bridge (Creedy) for which they are responsible shall on demand be repaid to the county council or the corporation (as the case may be) by the Commission:

PART V
—cont.

- (4) The Commission shall indemnify and hold harmless the protected authorities from all claims, demands or expenses which may be made on or against them or either of them or which they may have to pay by reason or in consequence of any injury or damage which may be caused or result to Cowley Bridge (Creedy) by reason of the increased flow of the river Creedy due to the construction of the authorised works or in consequence of the construction, maintenance, repair, alteration or renewal of an authorised work or of the failure or want of repair thereof or any subsidence caused by the construction thereof or in consequence of any act or omission of the Commission, their contractors, agents, workmen or servants whilst engaged upon an authorised work:

Provided that the protected authorities shall give to the Commission reasonable notice of any such claim or demand as aforesaid and no settlement or compromise thereof shall be made without the agreement of the Commission:

- (5) The foregoing provisions of this section shall apply in relation to Cowley Bridge (Exe) and for that purpose paragraph (2) of this section shall have effect as if in addition to the reference therein to the river Creedy and to Cowley Bridge (Creedy) there was inserted a reference to the river Exe and to Cowley Bridge (Exe); paragraph (3) of this section shall have effect as if in addition to providing for the repayment to the county council or the corporation of additional expenses incurred in maintaining Cowley Bridge (Creedy), it provided for the repayment to the corporation of additional expenses incurred in maintaining Cowley Bridge (Exe); paragraph (4) of this section shall have effect as if in addition to the reference therein to Cowley Bridge (Creedy) and to the river Creedy there was inserted a reference to Cowley Bridge (Exe) and to the river Exe:
- (6) Any difference arising between the Commission on the one hand and the protected authorities or either of them on the other under this section (other than a difference as to the construction of this section) shall be settled by arbitration.

For protection
of Devon
River Board
and Exeter
Corporation.

47. For the protection of the Devon River Board (in this section referred to as "the river board") and the mayor, aldermen and citizens of the city and county of the city of Exeter (in this section referred to as "the corporation") the following

provisions shall, unless otherwise agreed in writing between the Commission, the river board and the corporation, apply and have effect:—

PART V
—cont.

(1) In this section—

“ authorised work ” means—

(a) Work No. 8, Work No. 9, Work No. 10 or Work No. 11 or any work (whether temporary or permanent) forming part of or constructed in connection with any of the said works under the powers of this Act;

(b) the work of filling in the existing watercourses between the points marked A and B, C and D, C and E, and F and G on the signed plan and any work carried out in connection therewith under the powers of this Act;

and includes the maintenance or renewal of any authorised work;

“ city ” means the city and county of the city of Exeter;

“ construction ” includes execution, placing and altering and in relation to—

(a) temporary works also includes removal, alteration, modification, adaptation or filling in;

(b) the existing watercourses also includes filling in and any works connected therewith;

and “ construct ” and “ constructed ” have corresponding meanings;

“ the new bridges ” means the bridges shown coloured pink on the signed plan and numbered thereon 2 and 5;

“ drainage ” has the same meaning as in the Land Drainage Act, 1930, and “ drainage work ” shall be construed accordingly;

“ the existing bridges ” means the bridges shown coloured mauve on the said plan and thereon numbered 1, 3, 4 and 6;

“ the protected authorities ” means the river board and the corporation;

“ the specified watercourses ” means the rivers Exe and Creedy and the adjoining flood and relief channels and leats;

“ plans ” includes drawings, sections, specifications and programmes of construction;

PART V
—cont.

“the signed plan” means the plan signed in quintuplicate by the Lord Merthyr, the chairman of the Committee of the House of Lords to which the Bill for this Act was referred, of which one copy has been deposited in the office of the Clerk of the Parliaments, one copy in the Private Bill Office of the House of Commons, one copy at the principal office of the Commission, one copy with the clerk of the river board and one copy with the town clerk of Exeter:

- (2) The authorised works shall be so designed and constructed as to conform with the reasonable requirements of the river board for ensuring—

(a) that such works are or can be integrated with any works which may be carried out by the river board under the Land Drainage Act, 1930, for the prevention or mitigation of flooding by the river Exe of the city of Exeter and the land adjoining the river in the stretch of the river between Pynes Weir and Exe Bridge in the city;

(b) that the new cuts and the new bridges are so constructed as not to impede the passage of the flood waters of the specified watercourses and for that purpose it shall be assumed that the top level of the flood waters at the corporation’s waterworks at Pynes may reach a height of 51.5 feet above Ordnance datum (Newlyn) or 52.0 feet above Ordnance datum (Liverpool):

Provided that the Commission shall not be required to raise the level of the railway tracks above their existing level:

- (3) Notwithstanding anything in the last foregoing paragraph if, at any time after the initial construction of the authorised works has been completed and before the works to be carried out by the river board under the Land Drainage Act, 1930, being the works referred to in sub-paragraph (a) of the said paragraph have been completed, the drainage of the area above Cowley Weir becomes impaired as a result of the construction of the authorised works and the river board shall reasonably require that any of those works be modified such modification shall be carried out by the Commission at their expense:

- (4) Without prejudice to the generality of the provisions of paragraph (2) of this section—

(a) the foundations of the new bridges and so much of the authorised works as may be appurtenant thereto shall be not less than eighteen feet below the existing level of the ground;

(b) no part of the channel of a specified watercourse shall be filled in or otherwise obstructed either permanently or temporarily until the new cut which is to be substituted therefor has been completed to the reasonable satisfaction of the protected authorities, and in constructing or altering the authorised works the Commission shall ensure that the passage of migratory fish up or down stream of the specified watercourses is in no way impeded or obstructed by reason of the execution of such works and for that purpose shall comply with the reasonable requirements of the protected authorities as to the programme and execution of any such authorised work, including the provision of fish passes or channels, and the river board shall continue to exercise its functions in relation to the preservation of fisheries as respects the authorised work in like manner as they have done hitherto in relation to the specified watercourses;

(c) except in areas agreed between the protected authorities and the Commission no material excavated in the course of constructing or altering an authorised work or otherwise connected therewith shall be deposited or permitted to remain on the land comprised within the flood plain of a specified watercourse between the first day of October and the thirty-first day of March in any year:

- (5) The construction of so much of the authorised works as comprises Work No. 8 and any work forming part of or to be constructed in connection therewith shall not be commenced before the first day of January, nineteen hundred and sixty-three, and the plans of that part of those works shall not be submitted to the protected authorities under the next succeeding paragraph before the thirty-first day of July, nineteen hundred and sixty-two, nor shall the protected authorities be required to consider those plans before that date unless they are in a position to do so, in which case they shall as soon as is reasonably practicable notify the Commission and in that event this paragraph shall have effect as if the date so notified were substituted for the said thirty-first day of July and as if a date five months later than the date so notified were substituted for the said first day of January:
- (6) Not less than twenty-eight days before commencing an authorised work the Commission shall submit plans of such work to the protected authorities for their reasonable

PART V
—cont.

approval and shall not commence the authorised work until such plans have been approved by the protected authorities or in the case of difference until they shall have been settled by arbitration:

Provided that if either of the protected authorities do not within twenty-eight days after the receipt by them respectively of any such plans signify to the Commission their disapproval thereof and the grounds of their disapproval they shall be deemed to have approved thereof:

- (7) (a) An authorised work shall not be constructed except in accordance with such plans as may be approved or deemed to be approved by the protected authorities as aforesaid or settled by arbitration and shall be constructed to the reasonable satisfaction of the engineers of the protected authorities who shall each be given reasonable notice of the date and time on, and at which the authorised work is to be commenced;
- (b) The Commission shall at all reasonable times afford to the engineers of the protected authorities and their duly authorised representatives access to such authorised work for the purpose of inspection;
- (c) As soon as is reasonably practicable after the completion of an authorised work the Commission shall remove so much of the work as consists only of temporary works carried out for the purposes of such construction:
- (8) Subject to the provisions of paragraph (4) (c) of this section the construction of an authorised work shall when commenced be continued without interruption so far as is reasonably practicable until completion and no such work shall be abandoned during the course of its construction:
- (9) If, by reason of the construction, maintenance, repair, alteration or renewal of an authorised work or if, by reason of the failure of that work or of the Commission to maintain it, a drainage work shall be breached or (as the case may be) shall at any time be injured or its efficiency as a drainage work is otherwise impaired, the river board may fill in the breach or (as the case may be) make good such injury and in either such a case restore it to a proper standard of efficiency as a drainage work and recover the reasonable cost thereof (including a proper proportion of the overhead charges of the river board) from the Commission:

Provided that except in cases of emergency the river board shall consult the Commission before commencing any work of filling in, making good or restoring any such breach or injury:

(10) Any additional expense which may be reasonably incurred by the river board in maintaining such drainage work shall on demand be repaid to the river board by the Commission:

(11) Subject to the provisions of the River Boards Act, 1948, and the Public Health Act, 1936, the protected authorities and their respective officers, servants, workmen, contractors and agents together with any vehicles, plant or machinery shall be entitled at all reasonable times—

(i) to enter upon the lands or works of the Commission for the purpose of carrying out works thereon in connection with any of their functions; and

(ii) to enter upon the said lands or works for the purpose of obtaining access to a drainage work:

(12) (a) The Commission shall indemnify and hold harmless the protected authorities from all claims, demands or expenses which may be made on or against them or which they may have to pay by reason or in consequence of any injury or damage which may be caused or result to the specified watercourses or to any drainage work by or in consequence of the construction, maintenance, repair, alteration or renewal of an authorised work, or of the failure or want of repair thereof, or any subsidence caused by the construction thereof or in consequence of any act or omission of the Commission, their contractors, agents, workmen or servants whilst engaged upon an authorised work:

Provided that the protected authority concerned shall give to the Commission reasonable notice of any such claim or demand as aforesaid and no settlement or compromise thereof shall be made without the agreement of the Commission;

(b) The Commission shall make compensation to the corporation for any subsidence of or damage to any street for which the corporation are responsible or any mains or other property of the corporation which may be caused by or in consequence of any act or default of the Commission, their contractors, agents or servants in connection with the construction of the authorised

PART V
—cont.

works and whether such subsidence or damage shall happen during the construction of any such work or at any time within twelve months thereafter;

For the purposes of this sub-paragraph the expression “street” has the meaning assigned to it by section 343 of the Public Health Act, 1936:

- (13) If, in connection with the construction of an authorised work, the Commission require to divert the existing pumping mains of the corporation between the corporation’s waterworks at Pynes and a point in the road from Cowley to the city (which existing mains are of eighteen inches and twelve inches diameter respectively) the Commission shall provide in lieu thereof two mains (in this paragraph referred to as “substituted mains”) each with a diameter of eighteen inches:

Provided that the corporation shall repay to the Commission the amount which shall be agreed between their respective engineers or in default of agreement determined by arbitration to be the additional cost of providing a main with a diameter of eighteen inches in lieu of the existing twelve-inch diameter main;

The substituted mains, so far as they may pass under the railways of the Commission, shall be culverted and so far as they may pass over waterways shall be carried on bridges;

The Commission shall at their own cost secure to the corporation in relation to the substituted mains easements on terms not less favourable than the corporation would have enjoyed had such mains been laid by the corporation in pursuance of the powers of the Water Act, 1945:

- (14) If, in connection with the construction of an authorised work, the Commission require to divert or procure the diversion of the high tension electric line by which a supply of electricity is made available to the corporation’s waterworks at Pynes, the Commission shall arrange that all necessary steps are taken to ensure that except so far as may be temporarily unavoidable during the carrying out of the diversion the supply of electricity to the said waterworks is not interrupted:
- (15) Any sluices provided by the Commission in connection with the corporation’s waterworks at Pynes in consequence of the construction of an authorised work shall be operated by the corporation in agreement with the river board:

- (16) The fact that any work or thing has been executed or done in accordance with a plan approved or deemed to be approved by the protected authorities, or to their satisfaction, or in accordance with any directions or award of an arbitrator, shall not relieve the Commission from any liability under the provisions of this section:
- (17) Any difference arising between the Commission and the protected authorities or either of them under this section (other than a difference as to the construction of this section) shall be settled by arbitration.

48. Notwithstanding anything in this Act or shown upon the deposited plans, the Commission shall not under the powers of this Act enter upon, take or use any of the lands belonging to the council and numbered on the deposited plans 45 in the city of London so long as the said lands are used as a fire station:

Saving for
lands of
London
County
Council.

Provided that nothing in this section shall be deemed to prohibit the exercise by the Commission in respect of any buildings on the said lands of the powers of section 17 (Underpinning of houses near works) of the Act of 1949 as incorporated with this Act.

49. For the protection of the council the following provisions shall, unless otherwise agreed in writing between the Commission and the council, apply and have effect:—

For protection
of London
County
Council.

- (1) The Commission shall not without the consent of the council construct under any highway in the administrative county of London (in this section referred to as "the county") any part of the works which will be within twenty-five feet of the surface of such highway except in accordance with plans and sections submitted to and approved by the council, but such approval shall not be unreasonably withheld:
- (2) Upon the submission of any plans and sections in pursuance of paragraph (1) of this section, and before approving the same, the council shall with all reasonable dispatch consult with the council of the city or metropolitan borough in which the works are or will be situate, and for this purpose the council shall afford to such city or metropolitan borough council reasonable facilities for inspecting the plans and sections relating to such works:
- (3) In the event of the council omitting to express their disapproval of any plans or sections within twenty-eight days after the same shall have been submitted to them in pursuance of paragraph (1) of this section they shall be deemed to have approved the same:

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- (4) As soon as reasonably practicable after the completion of any part of the works under any highway in the county the Commission shall at their expense furnish the council with a map or plan of such works as constructed:
- (5) The Commission shall not without the consent of the council, which shall not be unreasonably withheld, make any communication between the works and the interior of any building, other than a building wholly used by the Commission for transport purposes:
- (6) Any difference arising between the Commission and the council under this section (other than a difference as to the construction of this section) shall be settled by arbitration.

For protection
of sewers of
London
County
Council.

50. For the protection of the sewers of the council the following provisions shall, unless otherwise agreed in writing between the Commission and the council, apply and have effect:—

- (1) The Commission shall not commence any part of Works Nos. 1, 2, 3, 4, 5 and 7 which will or may pass over, under or by the side of, or so as to interfere with, any sewer of the council (in this section referred to as “the said works”) until they shall have given to the council twenty-eight days’ previous notice in writing of their intention to commence the same by leaving such notice at the principal office of the council with plans as described in paragraph (8) of this section (in this section referred to as “the said plans”) and until the council shall have signified their approval of the same (unless the council do not signify their approval, disapproval or other directions within twenty-eight days after service of the said plans):
- (2) The Commission shall comply with and conform to all reasonable orders, directions and regulations of the council in the execution of the said works and shall provide new, altered or substituted works in such manner as the council shall reasonably require for the proper protection of, and for preventing injury or impediment to, such sewer by reason of the said works, and shall save harmless the council against all expenses to be occasioned thereby:
- (3) All such new, altered or substituted works shall where so required by the council be done by, or under the direction, superintendence and control of, the engineer or other officer of the council at the costs, charges and expenses in all respects of the Commission and all costs, charges and expenses to which the council may be put

by reason of such works, whether in the execution of works, the preparation or examination of plans or designs, superintendence or otherwise, shall be paid to the council by the Commission on demand:

- (4) When any such new, altered or substituted works, or any works of defence connected therewith, shall be completed by or at the costs, charges and expenses of the Commission under the provisions of this section the same shall thereafter be as fully and completely under the direction, jurisdiction and control of the council as any sewers or works now or hereafter may be:
- (5) Nothing in this Act shall extend to prejudice, diminish, alter or take away any of the rights, powers or authorities vested or to be vested in the council in relation to sewers but all such rights, powers and authorities shall be as valid and effectual as if this Act had not been passed:
- (6) The council may require the Commission in constructing the said works to make any reasonable deviation within the limits of deviation of the said works from the line or levels shown upon the said plans for the purpose of avoiding injury or risk of injury to the sewers of the council, and the Commission shall in constructing the said works deviate accordingly:
- (7) It shall not be lawful for the Commission in the exercise of the powers of section 7 (Power to make trial borings) of this Act to make any trial boring so as to interfere with any sewer of the council:
- (8) The plans to be submitted to the council for the purposes of this section shall be detailed plans, drawings, sections and specifications which shall describe the exact position and manner in which and the level at which the said works are proposed to be constructed, and shall accurately describe the position of all sewers of the council within the limits of deviation of the said works (for which purpose the council shall allow the Commission access to plans in their possession and to any of their sewers in order to enable the Commission to obtain reliable information) and shall comprise detailed drawings of every alteration which the Commission may propose to make in any such sewer:
- (9) The council may require such modifications to be made in the said plans as may be reasonably necessary to secure the London main drainage system against interference or risk of damage and to provide and secure a proper and convenient means of access to the said sewers:

PART V
—cont.

- (10) The Commission shall be liable to make good all injury or damage caused by or resulting from the construction of the said works to any sewers, drains or works vested in the council, and the council shall from time to time have power to recover the amount thereof from the Commission in any court of competent jurisdiction:
- (11) The approval by the council of any plans or the superintendence by them of any work under the provisions of this section shall not exonerate the Commission from any liability or affect any claim for damages under this section or otherwise.

For further protection of sewers of London County Council.

51. For the further protection of the Goswell Street, Irongate, Middle Level No. 1 (Dover Street Branch), King's Scholars' Pond and Church Street sewers of the council the following provisions shall, unless otherwise agreed in writing between the Commission and the council, apply and have effect:—

If the Commission in the construction of Works Nos. 1, 2, 3, 4, 5 or 7 alter, damage or in any way interfere with the existing sewers of the council known as the Goswell Street, Irongate, Middle Level No. 1 (Dover Street Branch), King's Scholars' Pond and Church Street sewers the Commission shall—

(a) from time to time pay to the council any additional cost to which the council may be put in the maintenance, management or renewal of any new, altered or substituted sewer which may be necessary in consequence of the construction of Works Nos. 1, 2, 3, 4, 5 or 7; and

(b) give to the council full, free and uninterrupted access at all times to any such new, altered or substituted sewer and every reasonable facility for the inspection, maintenance, alteration and repair thereof.

Inspection of works by London County Council.

52. It shall be lawful for the engineer, or other officer of the council duly appointed for the purpose by the said engineer, from time to time to enter upon and inspect any works of the Commission constructed under the powers of this Act under, or in the neighbourhood of, any street or road, or part of a street or road, in or under which there are, or may be, any sewers or works of the council and any works which, under the provisions of this Act, are required to be constructed in accordance with plans, drawings, sections and specifications approved by the council.

53. Section 50 (For protection of sewers of London County Council) and section 52 (Inspection of works by London County Council) of this Act shall apply to the Whitecross Street unfiltered water main vested in the council as if the said unfiltered water main was a sewer for the purposes of the said sections, and section 51 (For further protection of sewers of London County Council) of this Act shall similarly apply as if the said unfiltered water main was expressly referred to therein.

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—cont.

For protection
of
Whitecross
Street
unfiltered
water main.

54. For the protection of the mayor and commonalty and citizens of the city of London (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
Corporation
of London.

(1) In this section, unless otherwise expressly provided—

“authorised works” means Work No. 1 and the reconstruction by the Commission of the bridge referred to in section 65 (As to bridge over Queen Victoria Street) of this Act, or either of those works, and includes any work constructed or to be constructed by the Commission in connection with either of those works;

“city engineer” means the engineer of the corporation and includes any person duly appointed to discharge temporarily the duties of that officer;

“construct” includes alter, renew and reconstruct and “construction” shall be construed accordingly;

“highway” means a highway for the time being vested in or repairable or maintained by the corporation:

(2) The Commission shall not, under the powers of this Act, acquire compulsorily any part of the lands delineated on the deposited plans and described in the deposited book of reference and therein numbered 3 in the city, but the Commission may in accordance with the provisions of section 31 (Power to acquire easements only in certain cases) of this Act acquire compulsorily such easements and rights in those lands as they may reasonably require for the purposes of Work No. 1:

(3) Before commencing to construct any part of the authorised works which will or may involve interference with any highway, the Commission shall consult the city engineer as to the time when such part shall be commenced, the period during which the construction of that part shall be carried out, the extent of the surface of the

PART V
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highway which may be occupied by the Commission for the purpose of the construction of that part and the manner in which such part shall be constructed, so as to reduce, so far as possible, inconvenience to the public and 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 such time, during such period, to such extent and in such manner as may be agreed between the Commission and the city engineer, or, in default of agreement, settled by arbitration:

- (4) (a) Before commencing the construction of any part of the authorised works that may be situated in, on, under or over any land of the corporation or any highway the Commission shall submit for the reasonable approval of the city engineer (which may be given subject to such reasonable conditions as the city engineer may impose) all such plans, sections and particulars thereof as he may reasonably require;
- (b) If, within twenty-eight days after the submission of such plans, sections and particulars, the city engineer does not signify to the Commission in writing his approval thereof, with or without conditions, or his disapproval thereof, he shall be deemed to have approved the same unconditionally:
- (5) No part of the authorised works that may be situated in, on, under or over any land of the corporation or any highway shall be constructed otherwise than in accordance with the plans, sections and particulars approved by the city engineer and such conditions as may be imposed by the city engineer under paragraph (4) of this section, or settled by arbitration:
- (6) (a) Any highway occupied, broken up or interfered with by the Commission for the purpose of or in connection with the construction or maintenance of the authorised works shall be reinstated by the Commission in such manner as may be reasonably approved by the city engineer and to his reasonable satisfaction;
- (b) The Commission shall, if reasonably so required by the city engineer, provide and maintain to the reasonable satisfaction of the city engineer, during such time as the Commission may occupy, break up or interfere with any part of a highway for the purpose of or in connection with the construction or maintenance of the authorised works such temporary bridges, ramps, carriageways or

footways for vehicular or pedestrian traffic, in such positions, as may be so required to prevent interference with the passage of such traffic in the highway:

- (7) (a) The Commission shall ensure that so much of Work No. 1 and any works to be constructed in connection therewith as is constructed under any highway shall be designed, constructed and at all times maintained so as to carry abnormal loading, as defined in sub-paragraph (b) of this paragraph, and in the event of any failure to comply with the provisions of this paragraph, the Commission shall pay to the corporation all costs and expenses reasonably incurred by them in carrying out any works of maintenance or repair in any highway rendered necessary by reason of such failure to comply;
- (b) In this paragraph "abnormal loading" means abnormal unit loading, type H.B., as specified in British Standard 153, Part 3A, 1954, published by the British Standards Institution on the thirty-first day of December, nineteen hundred and fifty-four, or in any other standard which may be published in substitution therefor before the commencement of the construction of the works of the Commission referred to in this paragraph:
- (8) The Commission shall, in addition to any notice which they are required to give to the Commissioner of Police of the city under the provisions of section 29 (As to works within city of London) of the Act of 1958 as incorporated with this Act, give to the city engineer not less than twenty-eight days' notice of their intention to commence the construction of any part of the authorised works that may be situated in, on, under or over any land of the corporation or any highway and the construction of the said part, when commenced, shall be carried out with all reasonable dispatch:
- (9) The Commission shall, at all reasonable times during the construction of any part of the authorised works that may be situated in, on, under or over any land of the corporation or any highway, afford to the duly authorised representatives of the corporation access to the said part for the purposes of inspection and shall supply them with all such information as they may reasonably require with regard to the works being constructed or the method of construction thereof:
- (10) (a) The Commission shall carefully preserve and remove all objects of geological or antiquarian interest discovered in the execution of the authorised works within the city and, subject to the rights of the Crown

PART V
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and except so far as the same may be proved to be the property of any other person, any such objects discovered shall be deposited in the Guildhall Museum as the property of the corporation;

- (b) The Commission shall afford to any officer of the corporation all facilities to inspect any objects discovered in the execution of the authorised works within the city:
- (11) The Commission shall not in the exercise of the powers of this Act for the purposes of or in connection with the construction or maintenance of the authorised works, without the consent of the corporation, alter, disturb or in any way interfere with any pedestrian subway, sanitary convenience, playground equipment, street refuge, traffic island, statue, police box, sewer, drain, lamp column, traffic sign or signal or any apparatus connected therewith or any other work or property of the corporation or under their control or repairable by them or the access to any such things, and any alteration, diversion, removal, replacement or reconstruction (whether or not in the place from which removed) of any such things which may be rendered necessary by reason or in consequence of such exercise by the Commission of the powers of this Act shall be carried out by the corporation or the Commission as the corporation shall think fit, and any costs and expenses reasonably incurred by the corporation in so doing shall be paid to the corporation by the Commission:
- (12) The Commission shall be responsible for and make compensation to the corporation for any subsidence of, or damage to, any highway or any work or property of the corporation or under their control or repairable by them, which may be caused by, or in consequence of the construction or maintenance of the authorised works or any act or default of the Commission, their servants, agents or contractors, whether such subsidence or damage shall happen during the construction of the works aforesaid or at any time thereafter, and the Commission shall effectively indemnify and hold harmless the corporation from and against all actions, costs, claims and demands whatsoever arising out of, or in connection with, the construction of the works aforesaid:

Provided that the corporation shall give to the Commission reasonable notice of any claim or demand

as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Commission:

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—cont.

- (13) The fact that any work or thing has been executed or done in accordance with a plan approved, or not objected to, by the city engineer or the corporation or to his or their satisfaction, or with his or their consent, or in accordance with any award of an arbitrator, shall not relieve the Commission from any liability under the provisions of this section:
- (14) Any difference which may arise between the Commission and the corporation or the city engineer under this section (other than a difference as to the construction thereof) shall be settled by arbitration.

55. For the protection of the mayor, aldermen and councillors of the metropolitan borough of Stepney (in this section referred to as “the council”) the following provisions shall, unless otherwise agreed in writing between the Commission and the council, apply and have effect:—

For protection
of Stepney
Borough
Council.

(1) In this section—

“highway” means a highway vested in the council;

“protected gardens” means the public gardens known as Trinity Square Garden and numbered on the deposited plans 1 in the metropolitan borough of Stepney and the gardens known as Wakefield Gardens and numbered on the deposited plans 4 in the metropolitan borough of Stepney or either of them:

(2) The Commission shall not under the powers of this Act acquire any interest in the protected gardens other than—

(a) such easements under the protected gardens as may be required by the Commission for the construction of Work No. 1 within the limits of deviation relative thereto;

(b) such interests as the Commission may require to enable them to make use of the surface and subsoil of the protected gardens as a temporary working site for the purpose of constructing Work No. 1 and the works connected therewith:

PART V
—cont.

- (3) Before exercising their powers under this Act with respect to the surface of the protected gardens the Commission shall consult the council as to the extent of the surface of the protected gardens which it may be reasonably necessary for the Commission to occupy for the purposes of sub-paragraph (b) of paragraph (2) of this section and as to the conditions under which such powers shall be exercised (including conditions as to reinstatement and the period within which reinstatement is to be completed after such time as the surface is no longer required for the said purposes) and the surface of the protected gardens shall not be occupied and such powers shall not be exercised except to such extent and except in accordance with such conditions as may be agreed between the Commission and the council or, failing such agreement, as may be determined in accordance with paragraph (11) of this section:

Provided that the extent of the surface of the protected gardens to be occupied by the Commission in pursuance of paragraph (2) of this section shall not except with the consent of the council exceed thirty-eight thousand square feet in the case of Trinity Square Garden or three thousand square feet in the case of Wakefield Gardens:

- (4) Before commencing the construction of any part of Work No. 1 that may be situated in, on, under or over any land belonging to or under the control of the council or any highway, the Commission shall submit to the council for their reasonable approval plans, sections and particulars relating thereto, including particulars as to the method of construction and as to the time when such part shall be commenced and as to the duration of the construction of such part and as to the extent of the surface of the highway that the Commission may occupy at any one time in the construction of such part:
- (5) No part of Work No. 1 that may be situated in, on, under or over any land belonging to or under the control of the council or any highway shall be constructed otherwise than in accordance with such plans, sections and particulars as may be approved by the council under paragraph (4) of this section and in accordance with such reasonable conditions as may be imposed by the council or, if such approval be refused, as may be settled by arbitration:

Provided that if within twenty-eight days after the submission to them of plans, sections and particulars under paragraph (4) of this section the council do not signify to the Commission their approval thereof with or without conditions or their disapproval thereof they shall be deemed to have approved thereof unconditionally:

- (6) Any highway occupied, broken up or interfered with by the Commission under the powers of this Act shall be reinstated by the Commission in a manner reasonably approved by the council and to their reasonable satisfaction:
- (7) The Commission shall, at all reasonable times during the construction of any part of Work No. 1 that may be situated in, on, under or over any land belonging to or under the control of the council or any highway, afford to the engineer of the council or his duly authorised representatives access to that part of the said work for the purposes of inspection:
- (8) The Commission shall make compensation to the council for any subsidence of or damage to any highway or any property of the council or under their control or repairable by them which may be caused by or in consequence of any act or default of the Commission, their contractors, servants or agents and whether such subsidence or damage shall happen during the construction of Work No. 1 or at any time thereafter:
- (9) The Commission shall keep the council indemnified against all actions, costs, claims and demands whatsoever brought or made against the council by any person in respect of loss or damage caused by or in consequence of the construction of Work No. 1:
- (10) The Commission shall not under the powers of this Act alter, disturb or in any way interfere with any tree, refuge, sewer, drain, lamp column, traffic sign or apparatus connected therewith or other property or work of the council or under their control or repairable by them or the access thereto without the consent of the council and any alteration, diversion, replacement or reconstruction of any such refuge, sewer, drain, lamp column, traffic sign or apparatus connected therewith or other property or work which may be necessary shall be made by the council or the Commission, as the council shall think fit, and any costs and expenses reasonably incurred by the council in so doing shall be repaid to the council by the Commission:

PART V
—cont.

- (11) (a) Any difference between the Commission and the council as to the conditions referred to in paragraph (3) of this section shall be determined by an arbitrator to be appointed by agreement between the parties or in default of agreement to be appointed by the President of the Royal Institution of Chartered Surveyors;
- (b) Except as provided in sub-paragraph (a) of this paragraph any difference arising between the Commission and the council under this section (other than a difference as to the construction of this section) shall be settled by arbitration.

For protection of Westminster City Council and Kensington Borough Council.

56. The provisions of section 46 (For protection of certain authorities) of the Act of 1955 shall apply and have effect as if those provisions were re-enacted in this Act with the following modifications:—

- (a) for the several authorities named in the said section other than the mayor, aldermen and councillors of the city of Westminster there were substituted the mayor, aldermen and councillors of the royal borough of Kensington;
- (b) for the reference to the underground railways there were substituted a reference to Works Nos. 5, 6 and 7.

Saving for Humber Bridge Act, 1959.

57. The provisions of section 85 (For protection of British Transport Commission) of the Humber Bridge Act, 1959, shall not apply to any works authorised by this Act or carried out in pursuance thereof.

For protection of Humber Conservancy Board.

58. For the protection of the Humber Conservancy 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:—

- (1) Before commencing the construction of any part of the jetty which will be situate on the foreshore or bed of the river Humber plans and sections showing the general mode of construction thereof shall be delivered by the Commission to the board for their reasonable approval, and such works shall not be constructed otherwise than in accordance with such plans and sections as may be approved by the board or as may be settled by arbitration, and all such works shall be executed to the reasonable satisfaction of the engineer of the board:
- (2) All temporary structures in the river Humber which may be necessary to enable the jetty to be constructed

shall be constructed to the reasonable satisfaction in all respects of the engineer of the board in accordance with plans and sections to be previously submitted to and approved by the board or settled by arbitration and so as not to interfere more than may be necessary with the navigation of, or the traffic on, the river Humber, and after the purpose for which such temporary structures were constructed has been accomplished the Commission shall with all reasonable dispatch, or after fourteen days' notice in writing from the board requiring them so to do, remove any such temporary structures or any materials for the same which may have been placed in the river Humber by the Commission, and on their failing so to do the board may remove the same, charging the Commission with the reasonable expense of so doing, and the Commission shall repay to the board all such expense:

PART V
—cont.

- (3) The Commission shall, before commencing any dredging in the river Humber under the powers of this Act (other than maintenance dredging), deliver to the board for their reasonable approval plans and sections defining the nature, extent and manner of such dredging and such dredging shall not be carried out otherwise than in accordance with such plans and sections and in such manner as may be approved by the board or as may be settled by arbitration:
- (4) In the event of the board omitting to express their disapproval of any plans or sections within two months after the same shall have been delivered to them in pursuance of this section they shall be deemed to have approved the same:
- (5) (a) The Commission shall for a period of ten years after the completion of any dredging carried out by them in the river Humber under the powers of this Act, and for such further period as is hereinafter referred to in this paragraph, maintain the general level of the river bed over the dredged area at a depth of not more than one fathom above the depth thereof at the time when such dredging is completed;
- (b) The further period referred to in this paragraph is such period (if any) after the expiration of the said period of ten years during which it is agreed between the Commission and the board (or in default of agreement determined by arbitration) that continued dredging to the minimum depth referred to in sub-paragraph (a) of this paragraph is reasonably necessary for the purpose of maintaining the stability of the navigable channel of, or the safety of navigation in, the river Humber:

PART V
—cont.

- (6) (a) If, during the construction of the jetty on the fore-shore or bed of the river Humber or of any temporary structures in connection therewith respectively or within five years after the completion of such works or after the removal of such temporary structures and in consequence of the construction or execution of such works or temporary structures, any accumulation of silt or other material shall be created in the river Humber in the vicinity of such works which shall cause an impediment to the free navigation of the river Humber, the Commission if so requested by the board within the period of five years after such completion shall remove such accumulation of silt or other material, and if they refuse or fail to do so the board may themselves cause the work to be done and may recover from the Commission the reasonable cost thereof;
- (b) Should any such accumulation arise within the said period of five years and be removed in accordance with the provisions of sub-paragraph (a) of this paragraph then any recurrence of such accumulation shall from time to time be removed as aforesaid during a period of ten years after the completion of the jetty or the removal of such temporary structures, as the case may be:
- (7) From and after the commencement of the construction of the jetty the Commission shall (if the board so direct) provide and maintain on the works an effective fog-signalling apparatus of a type approved by the board and shall duly and properly work such apparatus in foggy weather for the purpose of warning passing vessels of the existence of the works:
- (8) During the continuance of any dredging operations which the Commission may execute in the course of the construction of the jetty the Commission shall, if required by the board, provide and maintain to their reasonable satisfaction such lighted mooring or other buoys at any deposit ground in the Humber which may be approved for the deposit of dredgings from the site of the works, and take all such other steps as may be necessary to prevent danger to navigation:
- (9) In relation to Work No. 13 the provisions of section 40 (Survey of works by Minister), section 41 (Lights on works during construction) and section 43 (Abatement of works abandoned or decayed) of this Act and of section 6 (Power to deviate) of the Act of 1949 as incorporated with this Act shall, with the necessary modifications, apply to the board as if the board were named therein in addition to the Minister and any

expenses incurred by the board in pursuance of any of the said sections shall be a debt due to them from the Commission and be recoverable summarily as a civil debt where the amount recoverable does not exceed twenty pounds or in any civil court:

Provided that in the event of any inconsistency between any requirement of the Minister and of the board, or in the event of the board refusing to give any consent or approval under any of the said sections, the Commission shall be deemed to have complied with the provisions of those sections if they have complied with the requirement or obtained the consent or approval of the Minister, as the case may be:

- (10) The Commission shall allow at all reasonable times access both by water and by land to the board, their officers and servants on, to and over any part of the jetty without payment or hindrance whilst in the execution of their duties:
- (11) Any difference arising between the Commission and the board under this section (other than a difference as to the construction of this section) shall be settled by arbitration:
- (12) If there shall be any inconsistency between any plans or sections approved by the board or settled by arbitration under this section and the plans and sections approved by the Minister under section 39 (Works below high-water mark to be subject to approval of Minister) of this Act the works shall be executed in accordance with the plans and sections so approved by the Minister:
- (13) (a) The Commission shall not under the powers of this Act acquire in respect of the jetty any greater right or interest in the land numbered on the deposited plans 2 in the parish of Immingham (being part of the foreshore and bed of the river Humber) than an easement or right of constructing, maintaining, renewing and using the jetty, which easement or right the board and the Crown Estate Commissioners are hereby empowered to grant;
(b) The compensation for such easement or right shall be a rentcharge to be fixed (unless otherwise agreed with the board with the approval of the Crown Estate Commissioners) by arbitration under the provisions of the Lands Clauses Acts, and such grant shall be subject in other respects to the Humber Conservancy Act, 1868;

PART V
—cont.

(c) The board with the consent of the Crown Estate Commissioners are hereby empowered to sell or surrender the rentcharge mentioned in this paragraph:

(14) In this section the expression “ the jetty ” includes any subsidiary works constructed by the Commission in the river Humber under the powers of section 9 (Power to make subsidiary works) of this Act.

For protection
of Trent
River Board.

59. For the protection of the Trent River Board (in this section referred to as “ the river board ”) the following provisions shall, unless otherwise agreed in writing between the Commission and the river board, apply and have effect:—

(1) In this section—

“ the closed canals ” means the portions of the several waterways (other than the Ashton Canal, the Dearne and Dove Canal, the Lancaster Canal (North End) and the Manchester, Bolton and Bury Canal) described in the second column of the Third Schedule to this Act in respect of which all rights of navigation are extinguished under section 17 (Closing to navigation of certain waterways) of this Act and “ closed canal ” means any of the closed canals;

“ the adjacent watercourses ” means the watercourses constructed by the Commission or their predecessors adjacent to a closed canal and maintainable by the Commission, including all existing culverts or pipes so constructed and maintainable under a closed canal or through the embankment of a closed canal for the purpose of carrying water from one side of a canal to the other and now used for that purpose:

(2) (a) The Commission shall to the reasonable satisfaction of the river board so maintain the closed canals and the adjacent watercourses that the use thereof as an efficient part of the land drainage system of the Trent River Board area as for the time being constituted to the extent to which the closed canals and the adjacent watercourses were immediately before the passing of this Act so used shall not be impaired;

(b) The Commission may, with the consent of the river board, which consent shall not be unreasonably withheld, substitute for a closed canal or the adjacent watercourses or any part thereof reasonably suitable alternative provision for the purposes of land drainage:

- (3) In the event of a closed canal or any part thereof being transferred to any other authority, body or person the provisions of this section shall extend and apply to the closed canal or the part thereof so transferred as if such authority, body or person were referred to therein in lieu of the Commission:
- (4) Any difference arising between the Commission and the river board under this section (other than a difference as to the meaning thereof which does not arise in the course of the arbitration) shall be settled by arbitration.

PART V
—cont.

60. For the protection of the Commonwealth War Graves Commission (in this section referred to as “the War Graves Commission”) the following provisions shall, unless otherwise agreed in writing between the Commission and the War Graves Commission, apply and have effect:—

For protection
of the
Common-
wealth War
Graves
Commission.

- (1) In this section “the protected lands” means the lands forming part of the pleasure garden of Trinity Square, Great Tower Hill in the county of London which, by virtue of the provisions of the Merchant Navy Memorial Acts, 1927 and 1952, the War Graves Commission are authorised to use for the construction, preservation and maintenance of the memorial and the memorial extension constructed by the War Graves Commission under the powers of the said Acts:
- (2) The Commission shall not under the powers of this Act acquire any interest in the protected lands other than such easements under the protected lands as may be required by the Commission for the construction of Work No. 1:
- (3) (a) Before commencing to construct any part of Work No. 1 which is to be constructed under or which may affect the protected lands the Commission shall give to the War Graves Commission not less than twenty-eight days’ notice in writing of their intention so to do and such notice shall be accompanied by particulars, plans, sections and working drawings thereof for the reasonable approval of the War Graves Commission;
- (b) If the War Graves Commission shall not within twenty-eight days after the receipt by them of any such particulars, plans, sections and working drawings signify to the Commission in writing their approval or disapproval thereof, they shall be deemed to have approved thereof;

PART V
—cont.

- (c) Any such part of Work No. 1 which is to be constructed under or may affect the protected lands shall not be constructed otherwise than in accordance with—
- (i) such particulars, plans, sections and working drawings as shall be approved by the War Graves Commission or, if such approval be withheld, as shall be settled by arbitration; and
 - (ii) a method of working approved by the duly authorised representative of the War Graves Commission;
- and shall be constructed to the reasonable satisfaction of the War Graves Commission;
- (d) The Commission shall at all reasonable times afford to the War Graves Commission by their duly authorised representative access to any such part of Work No. 1 for the purpose of inspection:
- (4) Notwithstanding the provisions of section 7 (Power to make trial borings) of this Act the Commission shall not in the exercise of the powers of that section make any trial borings in the protected lands except as may be necessary for the carrying out of works under the southern part of the 1914-1918 memorial:
- (5) If by reason of the construction of Work No. 1 or of the failure thereof or of the failure to maintain the same the protected lands or any part thereof (including the said memorial and the said memorial extension constructed thereon) shall at any time be injured or damaged, such injury or damage shall forthwith be made good by the Commission to the reasonable satisfaction of the War Graves Commission and if the Commission fail so to do the War Graves Commission may make good the same and recover the reasonable cost thereof from the Commission:
- (6) The Commission shall indemnify and hold harmless the War Graves Commission from all claims, demands, costs, expenses, damages or loss which may be made on or against them or which they may incur or have to pay or which they may sustain in consequence of the construction, use, maintenance, renewal or alteration of Work No. 1, or of the failure or want of repair thereof, or any subsidence caused by the construction thereof or in consequence of any act or omission of the Commission, their contractors, agents, workmen or servants:

Provided that this paragraph shall not apply to any claims, demands, costs, expenses, damages or loss made, incurred, paid or sustained in consequence only

of the use of Work No. 1 at any time after the expiration of two years from the date of opening of Work No. 1 for public traffic:

PART V
—cont.

- (7) Any difference arising between the Commission and the War Graves Commission under this section shall be settled by arbitration.

61. The Commission shall not under the powers of this Act acquire any interest of National Provident Institution or Montague Burton Limited in the lands numbered on the deposited plans 16, 17 and 18 in the city of Westminster except those easements or rights of using the subsoil or under-surface of those lands which National Provident Institution and Montague Burton Limited have agreed to grant to the Commission for the purpose of constructing, altering, maintaining and using Work No. 5 or any work or convenience connected therewith.

For protection of National Provident Institution and Montague Burton Limited.

62. The Commission shall not under the powers conferred upon them by either section 23 (Power to acquire lands) of the Act of 1955, or section 27 (Power to acquire lands) of this Act, take any part of the lands in the city of Westminster numbered respectively 17 on the deposited plans and 13 on the plans deposited in connection with the Bill for the Act of 1955, except such easements or rights of using the subsoil or under-surface of those lands as may be reasonably required by the Commission for the purpose of constructing, altering, maintaining and using Work No. 1 authorised by the Act of 1955 or Work No. 5 authorised by this Act or any work or convenience connected with either of those works.

For protection of Overton Limited.

PART VI

MISCELLANEOUS

63. Paragraph (a) of subsection (3) of section 67 (Power to supply heat to Royal Naval College Greenwich) of the Act of 1957 shall have effect as if after the words "Old Woolwich Road" the words "Eastney Street" were inserted therein.

Amendment of section 67 of Act of 1957.

64.—(1) In this section—

"the Act of 1836" means the Act 6 Will. 4 c. xxxvi intituled "An Act for making a railway from Bristol to Exeter with Branches to the Towns of Bridgwater in the County of Somerset and Tiverton in the County of Devon";

As to tidal sluice, etc., at Bleadon.

"the board" means the Somerset River Board.

PART VI
—cont.

(2) As from the passing of this Act so much of section XCIII (Regulating the Formation of the Railway across the River Axe) of the Act of 1836 as requires the Commission to provide and for ever maintain as part of the bridge referred to in the said section XCIII a tide sluice with doors on the seaward side thereof and section XCV (Company to keep Waterway in repair) of the Act of 1836 shall apply and have effect as if the board had been named in the said sections XCIII and XCV in lieu of the Bristol and Exeter Railway Company, and the said tide sluice and the seaward doors thereof shall vest in and become the property of the board:

Provided that, as from the completion and bringing into use of any new tide sluice that may be constructed by the board across the river Axe at any point seaward of the said existing tide sluice, the provisions of the said section XCIII with respect to the said existing tide sluice and the seaward doors thereof shall cease to have effect.

(3) So much of the said section XCIII as requires the Commission to make and for ever maintain quay walls, wharves and landing places on the seaward side of the said bridge and doors on the land side of the said existing tide sluice is hereby repealed.

(4) Upon the passing of this Act the Commission shall pay to the board the sum of fifteen thousand pounds in respect of the obligations transferred to the board by this section.

As to bridge
over Queen
Victoria
Street.

65.—(1) Notwithstanding anything in section LXXI (Width and Headway of specified Streets), or section LXXIII (Prescribing Manner of crossing streets in London) of the London Chatham and Dover Railway (Metropolitan Extensions) Act, 1860, or in section 12 (Provisions as to bridge over Queen Victoria Street) of the London Chatham and Dover Railway (Further Powers) Act, 1884, the Commission shall, in reconstructing the bridge carrying the railway between Holborn Viaduct and Blackfriars over Queen Victoria Street in the city of London, reconstruct the same so as to provide a headroom of not less than seventeen feet three inches at all points above the surface of the existing carriageway of that street and above a line drawn in continuation of the curve of the surface of the existing carriageway to each of the abutments of the bridge, and as from the passing of this Act so much of the said section 12 as requires the bridge to be made of an ornamental character shall cease to have effect.

(2) The provisions of section 54 (For protection of Corporation of London) of this Act shall apply in relation to the reconstruction by the Commission of the said bridge in substitution for paragraphs (a), (b) and (c) of the said section 12.

66.—(1) Section 14 (Company to erect Passenger Station at Worsley) of the London and North Western Railway (Eccles, Tyldesley and Wigan) Act, 1861, is hereby repealed.

PART VI
—cont.

Release from obligations in respect of Worsley station.

(2) The Commission are hereby released from all obligations under the instruments referred to in this section or either of them—

- (a) to maintain a passenger station or stopping place with suitable buildings, approaches, works and conveniences as provided in the said instruments or either of them;
- (b) to provide attendance at such station or stopping place;
- (c) to stop any train at such station or stopping place.

(3) The instruments referred to in this section are—

- (a) articles of agreement dated the twenty-first day of February, eighteen hundred and sixty-one, between the London and North Western Railway Company of the first part, the Right Honourable Robert Lord Ebury Baron Ebury, the Honourable George Henry Charles Byng and the Honourable Algernon Egerton of the second part and the Right Honourable George Granville Egerton Earl of Ellesmere of the third part;
- (b) an indenture made the thirty-first day of December, eighteen hundred and sixty-three, between the Right Honourable Robert Baron Ebury, the Honourable Henry Charles Byng and the Honourable Algernon Egerton of the first part, George Law of the second part and the London and North Western Railway Company of the third part.

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

67.—(1) The following enactments are hereby repealed—

Release from obligations in respect of Hartfield and Withyham stations.

- (a) so much of section 21 (Stations to be erected at Hartfield and Withyham) of the East Grinstead, Groombridge and Tunbridge Wells Railway Act, 1862, as requires the provision of goods stations with wharves and other conveniences for loading and unloading timber, coals, corn, lime, manure and other goods, and also horses and livestock;
- (b) section 22 (A siding to be constructed at Withyham Station) of the said Act of 1862.

PART VI
—cont.

(2) The Commission are hereby released from all obligations under the indenture referred to in this section—

- (a) to furnish any trucks, waggons or other means of conveyance for the purpose of conveying any goods, horses or livestock;
- (b) to transport any trucks or waggons along the siding referred to in the said section 22 or from or to the said siding to or from any station on any railway belonging to or worked by the Commission;
- (c) to cause any train to call at the said siding for the purpose of leaving any trucks or waggons at or removing any trucks, waggons or carriages from the said siding.

(3) The indenture referred to in this section is an indenture dated the thirty-first day of December, eighteen hundred and seventy and made between the Right Honourable Charles Richard Earl de la Warr of the first part, the Honourable and Very Reverend Gerald Wellesley and Edward Percy Buckley of the second part, Samuel Forster and Francis Charles Hastings Russell of the third part, Inigo William Jones and the Reverend John Edward Jackson of the fourth part, the Honourable George Henry Cavendish of the fifth part, John Wormald of the sixth part, John Hill Smith of the seventh part, Henry Wellesley Lightfoot of the eighth part, the Honourable William Edward Sackville West of the ninth part, Francis Charles Hastings Russell and Alfred Buckley of the tenth part, the Reverend Frederick Chambers Fitton, Charles Harcourt Chambers, the Reverend Thomas Bond Bird Robinson and Ralph Wood Thompson of the eleventh part, the said Frederick Chambers Fitton, Charles Harcourt Chambers, Thomas Bond Bird Robinson and Ralph Wood Thompson of the twelfth part and the London Brighton and South Coast Railway Company of the thirteenth part.

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

Repeals.

68.—(1) The enactments referred to in the first and second columns of the Ninth Schedule to this Act are hereby repealed to the extent specified in the third column of the said schedule.

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

69.—(1) The period now limited by the Act of 1958 for the compulsory purchase of the lands referred to in Part I of the Tenth Schedule to this Act, is hereby extended until the thirty-first day of December, nineteen hundred and sixty-four. Extensions of time.

(2) The periods now limited by the Acts of 1955 and 1957 respectively for the compulsory purchase of the lands referred to in Part II of the said schedule, are hereby extended until the thirty-first day of December, nineteen hundred and sixty-seven.

(3) The period now limited by the Act of 1955 for the completion of the works referred to in Part III of the said schedule, is hereby extended until the thirty-first day of December, nineteen hundred and sixty-seven.

(4) The powers for the compulsory purchase of the said lands and for the completion of the said works shall cease on the said respective dates, except in so far as any such powers shall by then have been exercised.

(5) In this section and in the said schedule the word “lands” includes any easements or rights in, under or over land authorised to be acquired by the enactments referred to in the said schedule.

70. 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. Saving for town and country planning.

71. 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. Arbitration.

72. 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. Costs of Act.

SCHEDULES

FIRST SCHEDULE

Section 6 STREETS REFERRED TO IN SECTION 6 (POWER TO OPEN SURFACE OF STREETS)
OF THIS ACT

WORK No. 1

In the city of London—

Byward Street.
Vine Street.
The Crescent.
Hammett Street.

In the metropolitan borough of Stepney—

Trinity Square.
Tower Hill.

WORK No. 2

In the city of London—

Aldersgate Street.
Barbican.
Australian Avenue.
Redcross Street.
Whitecross Street.
Milton Street.
Moor Lane.

WORK No. 5

In the city of Westminster—

Victoria Street.
Wilton Road.

WORKS NOS. 6 AND 7

In the royal borough of Kensington—

Cromwell Road.
Gloucester Road.
Courtfield Road.

SECOND SCHEDULE

Section 14 THE LEVEL CROSSINGS REFERRED TO IN SECTION 14 (AS TO CERTAIN LEVEL
CROSSINGS) OF THIS ACT

PART I

In the county of Chester—

In the parish of Barthomley in the rural district of Nantwich—
The level crossing known as Radway Green Lower Crossing
whereby the former road from Crewe to Alsager is crossed
by the railway between Radway Green and Crewe stations.

PART II

2ND SCH.
—cont.

In the county of Leicester—

In the parish of Husband's Bosworth in the rural district of Market Harborough—

The level crossing known as Husband's Bosworth Crossing whereby the road from Husband's Bosworth to the Grand Union Canal is crossed by the railway between Theddingworth and Welford and Kilworth stations.

In the county of Rutland—

In the parish of Teigh in the rural district of Oakham—

The level crossing known as Teigh Crossing whereby the road from Teigh to Whissendine is crossed by the railway between Saxby and Ashwell stations.

In the county of Somerset—

In the parish of Sparkford in the rural district of Wincanton—

The level crossing known as Sawmills Crossing whereby the road from South Barrow to the sawmills is crossed by the railway between Sparkford and Castle Cary stations.

PART III

In the county of Dorset—

• In the urban district of Sherborne—

The level crossing known as Lenthay Crossing whereby Lenthay Lane is crossed by the railway between Sherborne and Yeovil Junction stations.

In the county of Leicester—

In the parish of Lubenham in the rural district of Market Harborough—

The level crossing known as Scoborough Crossing whereby the road from Marston Trussell to the Grand Union Canal is crossed by the railway between Theddingworth and Lubenham stations.

In the county of Lincoln (Parts of Holland)—

In the rural district of Spalding—

In the parish of Surfleet—

The level crossing known as Beach Bank Crossing whereby Beach Bank is crossed by the railway between Pinchbeck and Gosberton stations.

In the parish of Donington—

The level crossing known as South Ings Crossing whereby South Ings Drive is crossed by the railway between Donington Road and Gosberton stations.

2ND SCH.
—cont.

In the parish of Quadring—

The level crossing known as Town Dam Crossing whereby Town Dam Drove is crossed by the railway between Donington Road and Gosberton stations.

In the county of Norfolk—

In the parish of Marshland St. James in the rural district of Marshland—

The level crossing known as Bettinson's (or Bettison's) Crossing whereby Rand's Drove is crossed by the railway between Smeeth Road and Middle Drove stations.

In the county of Stafford—

In the parish of Weston-upon-Trent in the rural district of Stafford—

The level crossing known as Highfields Crossing whereby Sandy Lane is crossed by the railway between Aston-by-Stone and Weston and Ingestre stations.

THIRD SCHEDULE

THE WATERWAYS REFERRED TO IN SECTION 16 (INTERPRETATION OF
PART III) OF THIS ACT

Section 16

Name of waterway (1)	Portion to be closed to navigation (2)	Authorising Act (3)
Ashton Canal ...	The Hollinwood Branch (1 mile 400 yards in length) from its commencement by a junction with the main canal at Fairfield to its present termination 300 yards north of the aqueduct carrying the said branch over the railway between Clayton Bridge and Droylsden stations, all in the urban district of Droylsden in the county of Lancaster	32 Geo. 3 c. lxxxiv.
Birmingham Canal	Part of the Bentley Canal (2 miles 814 yards in length) from a point 442 yards east of Neachells Bridge carrying Neachells Lane over the said canal in the urban district of Wednesfield to the junction of the said canal with the Anson Branch in the urban district of Darlaston all in the county of Stafford	3 Vict. c. xxiv.
Birmingham Canal (Wolverhampton Level)	Part of the Bloomfield to Deepfields Old Canal (590 yards in length) from a point 120 yards north of Tup Street Bridge carrying the road from Batmans Hill to Lower Bradley over the said canal in the borough of Bilston to a point 460 yards south-east of the said bridge in the urban district of Coseley all in the county of Stafford	8 Geo. 3 c. xxxviii.
Birmingham Canal (Wolverhampton Level)	Part of the Rotton Brunt Shortening extending from the point last described for a distance of 290 yards in a south-easterly direction, all in the urban district of Coseley in the county of Stafford	46 Geo. 3 c. xcii.
Birmingham Canal	The portion known as Bradley Locks (1,726 yards in length) from its junction in the urban district of Coseley with the portion of waterway last described to its junction with the Walsall Canal at Moorcroft Junction in the borough of Wednesbury all in the county of Stafford	23 Geo. 3 c. xcii. 3 Vict. c. xxiv.

3RD SCH.
—cont.

Name of waterway (1)	Portion to be closed to navigation (2)	Authorising Act (3)
Dearne and Dove Canal	From its junction with the former Barnsley Canal in the county borough of Barnsley to a point 10 yards east of the railway bridge over the canal in the urban district of Swinton, in the West Riding of the county of York, including the branches to Elsecar and Worsbrough (a total length of 13 miles 1,078 yards)	33 Geo. 3 c. cxv.
Lancaster Canal (North End)	From its present northern termination 8 yards south of Crowpark Bridge to a point 340 yards east of Stainton Crossing Bridge carrying the road from Stainton Cross to Viver over the canal, all in the rural district of South Westmorland in the county of Westmorland (being a distance of 3 miles 1,223 yards)	32 Geo. 3 c. ci.
Manchester, Bolton and Bury Canal	The remainder of the canal comprising— (a) The Bury Arm from its present commencement 567 yards west of Ladyshore Bridge, in the urban district of Little Lever in the county of Lancaster, to its two terminations in the county borough of Bury (being a distance of 4 miles 921 yards); and (b) The main canal from its commencement by a junction with the river Irwell, in the city and county borough of Salford, to its present termination at the southern end of the Clifton Aqueduct in the borough of Swinton and Pendlebury in the county of Lancaster (being a distance of 4 miles 977 yards)	31 Geo. 3 c. lxxviii. 1 & 2 Will. 4 c. lx.
Walsall Canal ...	The Anson Branch (560 yards in length) from its commencement by a junction with the main canal to its present termination 40 yards south-west of Bentley Mill Bridge, all in the urban district of Darlaston in the county of Stafford	34 Geo. 3 c. lxxxvii.

FOURTH SCHEDULE

Section 18

REDEVELOPMENT SCHEME FOR PART OF DEARNE AND DOVE CANAL

1. The Scheme contained in this schedule may be cited as the *Short title and* Dearne and Dove Canal Redevelopment Scheme, 1961, and shall *commence-* come into operation on the first day of January, nineteen hundred *ment.* and sixty-two.

2. In this Scheme—

Interpretation.

“ the canal ” means so much of the Dearne and Dove Canal, authorised by the Act 33 Geo. 3 c. cxv, as lies between the point where the boundary between the county borough of Barnsley and the urban district of Worsbrough in the West Riding of the county of York crosses the said canal and a point ten yards east of the railway bridge over the said canal in the urban district of Swinton in the said county, and the reservoirs and other works connected therewith vested in, or repairable by, the Commission, and includes the branches to Elsecar and Worsbrough;

“ the Canal Acts ” means the Act 33 Geo. 3 c. cxv and the Act 39 & 40 Geo. 3 c. xxxvii;

“ the Coal Board ” means the National Coal Board;

“ the Commission ” means the British Transport Commission;

“ the county council ” means the county council of the administrative county of the West Riding of Yorkshire;

“ the drainage board ” means the Dearne and Dove Internal Drainage Board;

“ highway authority ” means, as respects any bridge carrying a highway over the canal, the highway authority for that highway in accordance with the Highways Act, 1959;

“ retained land ” means the land coloured grey on the signed plan, which is intended to be retained for the time being by the Commission for railway purposes;

“ the river board ” means the Yorkshire Ouse River Board;

“ the signed plan ” means the plan signed in quadruplicate by Sir William John Anstruther-Gray, the chairman of the Committee of the House of Commons to whom the Bill for the Act confirming this Scheme was referred, of which 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, one copy at the principal office of the Commission and one copy at the office of the clerk of the county council;

“ the Swinton Council,” “ the Wath Council,” “ the Wombwell Council,” “ the Hoyland Nether Council,” “ the Worsbrough Council ” and “ the Rotherham Council ” mean respectively the councils of the urban districts of Swinton, Wath-upon-Dearne, Wombwell, Hoyland Nether and Worsbrough and the rural district of Rotherham.

4TH SCH.
—cont.

Canal Acts
not to apply.
Saving for
powers to
take water.

3. The Canal Acts shall, on the commencement of this Scheme, cease to apply to the canal, except as otherwise provided in this Scheme.

4. Where, immediately before the commencement of this Scheme, the Commission had power under the Canal Acts to take water from any source into the canal and to maintain and operate any works for that purpose, the like power shall, subject to all restrictions on the exercise thereof contained in the Canal Acts, be exercisable by the owner for the time being of that part of the canal into which water from that source is taken.

Highway
bridges.

5.—(1) Every bridge carrying a public road over the canal shall, by virtue of this Scheme and without any further assurance, be transferred to and vest in the highway authority, together with the abutments thereof and the approaches thereto, and the land under, or forming the site of, such bridge, so far as such bridge, abutments, approaches and land are the property of the Commission, and together with the land of the Commission adjoining such bridge which is coloured brown on the signed plan.

(2) (a) For the purposes of this section the county council shall be deemed to be the highway authority in respect of Burying Lane Bridge.

(b) This section shall apply to the public footpath bridge in the urban district of Wath-upon-Deerne, situate one hundred and fifty yards west of Outlane Bridge and the Wath Council shall be deemed to be the highway authority in respect thereof.

(c) This section shall not apply to the bridge in the urban district of Swinton carrying Queen Street over the canal and the adjoining railway.

(3) In the case of the parts of the canal hereinafter mentioned (which are among those vested in the Coal Board by section 8 of this Scheme) there shall also vest in the Coal Board, by virtue of this Scheme and without any further assurance—

(a) in relation to any land coloured brown on the signed plan which severs—

(i) a portion of the part of the canal thereon numbered 21 from another portion of that part of the canal;

(ii) a portion of the part of the canal thereon numbered 22 from another portion of that part of the canal; or

(iii) a portion of the part of the canal thereon numbered 23 from another portion of that part of the canal;

an easement in perpetuity for the passage across such land of water of sufficient volume to meet the reasonable requirements of the Coal Board;

(b) in relation to any land coloured brown on the signed plan which severs—

(i) a portion of the part of the canal thereon numbered 3 from another portion of that part of the canal;

(ii) a portion of the part of the canal thereon numbered 16 from another portion of that part of the canal; or

(iii) a portion of the part of the canal thereon numbered 17 from another portion of that part of the canal;

a right in perpetuity to convey water in a pipe or pipes across such land in sufficient volume to meet the reasonable requirements of the Coal Board without payment but subject to any other conditions as may be agreed between the Coal Board and the highway authority or, failing such agreement, as may be determined by arbitration to be reasonable.

4TH SCH.
—cont.

(4) (a) It shall be lawful for the highway authority to exercise all rights of the Commission attaching to such bridge, abutments, approaches and lands and they shall, to the exclusion of the Commission, be subject to the obligations of the Commission attaching to such bridge, abutments, approaches or lands, or to any approaches to the bridge situate on any other land.

(b) The provisions of section 19 of this Scheme shall apply to the substitution of an embankment for any such bridge.

(5) The Commission shall pay to the highway authority in respect of each such bridge and the approaches and works as aforesaid such sum of money, in consideration of the Commission being relieved of their obligation in regard to the maintenance thereof, as may be agreed or, in default of agreement, settled by arbitration.

6. Where, immediately before the commencement of this Scheme, the Commission were liable to maintain any bridge over any part of the canal provided for the use of the owners and occupiers of any lands adjoining the canal, the owner for the time being of that part of the canal shall be liable to keep such bridge in good and sufficient repair until otherwise agreed with the owners of such adjoining lands: Accommodation bridges.

Provided that such owner for the time being may, at any time, subject to the provisions of section 19 of this Scheme, substitute for such bridge an embankment, with a reasonably sufficient road or path thereover for the use of the owners and occupiers of such adjoining lands.

7.—(1) As soon as is reasonably practicable the Commission shall, in respect of each part of the canal shown on the signed plan by a number and colour specified in the first column of Schedule A to this Scheme, comply, to the reasonable satisfaction of the body or bodies referred to in the second and third columns of that schedule, with the requirements specified in relation thereto in the fourth column of that schedule. Requirements prior to transfer.

(2) In relation to each part of the canal specified in the first column of the said schedule, each of the bodies named in respect thereof in the second and third columns of the said schedule shall, when the requirements specified in the fourth column of the said schedule have been carried out to the satisfaction of that body, by writing under the hand of its clerk (or in the case of the Coal Board its secretary) certify in duplicate that such requirements have been so carried out.

(3) If, in the opinion of the Commission, any such certificate has been unreasonably refused the Commission may refer the matter to arbitration and the arbitrator shall, when the requirements so specified have been carried out to his satisfaction, certify in duplicate that such requirements have been so carried out.

4TH SCH.
—cont.

(4) Subsections (2) and (3) of this section shall not apply to any of the parts of the canal numbered on the signed plan 1, 6 and 8 but the Commission, or other the owner thereof for the time being, shall, until the use thereof is changed pursuant to permission in that behalf granted under Part III of the Town and Country Planning Act, 1947, keep the same in a reasonably clean and dry condition.

Transfer of
parts of canal.

8.—(1) In this section “the vesting day” means, in relation to each part of the canal specified in Schedule A to this Scheme, the date of the certificate issued in respect thereof under subsection (2) or subsection (3) of the last preceding section or, where more than one such certificate is required, the date of the last of such certificates:

Provided that, in respect of the parts of the canal numbered 19 and 23 on the signed plan (being the Worsbrough Reservoir and the Elsecar Reservoir), it means the first day of January, nineteen hundred and sixty-two.

(2) Each part of the canal shown on the signed plan by a number and colour specified in the first column of the said schedule shall, on the vesting day, by virtue of this Scheme and without any further assurance, be transferred to and vest in the body named in relation thereto in the second column of the said schedule, for all the estate or interest of the Commission therein.

(3) All agreements, contracts, leases, conveyances, deeds of grant of rights or easements and other instruments legally made, entered into or granted by or with the Commission, or the predecessors in title of the Commission, and in force on the vesting day and relating to, or in so far as they relate to, any part of the canal transferred by virtue of this section shall, on and after that date, be as binding and of as full force and effect against or in favour of the body to which that part of the canal is transferred, and be enforceable as fully and effectually as if that body had been a party thereto instead of the Commission, or the predecessors in title of the Commission.

(4) (a) The Commission shall as soon as is reasonably practicable after the vesting day transmit to the body to which a part of the canal is transferred by virtue of this section all agreements, contracts, leases, conveyances, deeds of grant of rights or easements and other instruments relating to that part of the canal.

(b) Paragraph (a) of this subsection shall not apply to any such instrument which relates also to land retained by the Commission or transferred by virtue of this section to another body.

(c) Each body to which a part of the canal affected by an instrument referred to in paragraph (b) of this subsection applies is transferred shall be allowed to have access to such instrument at all reasonable times and to make copies thereof and the same covenants shall be implied by the Commission in relation to such an instrument being a deed or document of title as would be implied in a conveyance by an acknowledgment of the right of production and to delivery of copies and an undertaking for safe custody.

9.—(1) The Commission, if requested in writing to do so by a body to whom any part of the canal has been transferred by virtue of this Scheme, shall (subject to any tenancy then subsisting) grant to that body a tenancy of any of the retained land adjoining such part of the canal which is not for the time being required by the Commission for railway purposes.

4TH SCH.
—cont.

As to canal
land retained
for railway
purposes.

(2) (a) Every such tenancy shall, unless otherwise agreed—

(i) be terminable by either party by twelve months' notice;

(ii) be at a nominal rent;

(iii) permit the use of the land for any lawful purpose which will not materially interfere with the use of such land for railway purposes after termination and which will not prevent or render more difficult or expensive the carrying out by the Commission of the obligations referred to in subsection (4) of this section; and

(iv) be upon the condition that the tenant shall not assign, underlet, or part with, the possession of the land comprised in the tenancy.

(b) Every such tenancy shall be upon the condition that the tenant shall maintain the land comprised in the tenancy in a clean, dry and orderly condition.

(3) The Landlord and Tenant Act, 1954, shall not apply to a tenancy granted under this section.

(4) The Commission shall after the dewatering of each part of the canal which is retained land and until it is put into use for railway purposes maintain so much thereof as is not for the time being subject to a tenancy under this section in a clean, dry and orderly condition.

(5) Where any part of the canal vested in a body by section 8 of this Scheme is severed from another part so vested in the same body by retained land, there shall, by virtue of this Scheme and without any further assurance, vest in the body an easement in perpetuity for the passage across such retained land of water of sufficient volume to meet the reasonable requirements of the body, and the provisions of section 19 of this Scheme shall apply to the substitution of any embankment for a railway bridge on such retained land.

10.—(1) After the vesting day referred to in section 8 of this Scheme, the Coal Board, or other owner for the time being of each part of the canal specified in the first column of Schedule B to this Scheme, shall, to the reasonable satisfaction of the county council and of the council of the urban district in which that part of the canal is situate, perform and observe the obligations and conditions set out in respect of that part of the canal in the second column of the said schedule until either the part of the canal to which the obligations relate has been conveyed to the council of an urban or rural district under section 13 of this Scheme, or until the use of that part of the canal is changed pursuant to permission in that behalf granted under Part III of the Town and Country Planning Act, 1947.

As to parts
of canal
transferred
to Coal Board.

4TH SCH.
—cont.

(2) All such obligations requiring the execution of works shall be performed as soon as is reasonably practicable after the vesting day.

Rights of
Coal Board
in respect of
canal vested
in county
council and
adjoining
retained land.

11. After the vesting in the county council by virtue of this Scheme of the part of the canal numbered 18 on the signed plan, the Coal Board shall have a right to the free and uninterrupted passage of water through the same and through the existing culverts in the adjoining retained land from the Worsbrough Reservoir and feeder to the eastern part of the Worsbrough branch of the canal and a right to abstract water from the said part of the canal, provided that the level of the water therein is not materially altered by such abstraction.

Rights of
Coal Board
in respect of
canal vested
in Wombwell
Council.

12. After the vesting in the Wombwell Council by virtue of this Scheme of the part of the canal numbered 5 on the signed plan, the Coal Board shall have the right to discharge into that part of the canal water pumped from the Mitchells Main Colliery shafts, so long as the said part of the canal remains in water, provided that, if the Wombwell Council require to dewater such part of the canal, the Coal Board, in concert with the Wombwell Council, shall make provision to discharge such water into an enlarged pipe or channel to be constructed by the Wombwell Council, the Coal Board being responsible for payment of a proportionate part of the cost of such enlarged pipe or channel.

Option to
district
councils in
respect of
canal vested
in Coal Board.

13. If at any time any part of the canal vested in the Coal Board by virtue of this Scheme is not required to be held by the Coal Board for use for their purposes, the Coal Board shall give notice in writing to that effect to the council of the urban or rural district in whose area such part of the canal is situate and shall, if within six months thereof such council so requires, convey such part of the canal to that council on such terms as may be agreed or, failing such agreement, as may be determined by arbitration to be reasonable.

Option to
county council
to acquire
part of canal
vested in
Wath Council.

14. If at any time the county council give notice in writing to the Wath Council that they require for highway purposes the whole or any portion of that part of the canal which is numbered 12 on the signed plan, the Wath Council shall sell and convey the same to the county council, for such payment as may be agreed between the county council and the Wath Council or, failing such agreement, as may be determined by arbitration to be reasonable.

Land drainage.

15.—(1) Where any land, at the date upon which the canal, in whole or in part, is filled up, drains into the canal, or such part, the owner for the time being of the canal, or such part thereof, shall, to the reasonable satisfaction of the owner of such land and of the river board and the drainage board, provide and maintain such alternative means as may be necessary for carrying away and discharging the water from such land, so as to ensure that the drainage thereof is not rendered less efficient than at the time of such filling up.

(2) (a) Where water is, at the commencement of this Scheme, carried from one side of any part of the canal to the other by means of a culvert or pipe, the owner for the time being of that part of the canal shall, to the reasonable satisfaction of the river board and the drainage

board, maintain such culvert or pipe, and keep it free from obstruction, or provide and maintain such other means as may be reasonably necessary to carry the water from one side of the canal to the other.

4TH SCH.
—cont.

(b) Where the flow of water into or out of any such culvert or pipe is controlled by a sluice or other device, the owner for the time being shall maintain such sluice or device in good working order, and operate the same to the reasonable satisfaction of the river board and the drainage board.

(3) Where any part of the canal is not filled in and remains an open watercourse, the owner for the time being shall (without prejudice to the other provisions of this Scheme) maintain the channel and banks of such part of the canal in an efficient manner to the reasonable satisfaction of the river board and the drainage board.

16.—(1) Where the county council or an urban or rural district council are entitled, otherwise than under an agreement which the Commission have power to terminate, to discharge water or sewage effluent into any part of the canal, the Commission, or other the owner for the time being of that part of the canal, shall not (unless otherwise agreed with the county council or such district council) dewater the same until provision has been made to the reasonable satisfaction of the county council or such district council, as the case may be, for the conveyance of such water or sewage effluent to an alternative channel instead of the canal, and the cost of providing such alternative channel shall be borne by the Commission or such owner for the time being, as the case may be.

As to discharges of water or effluent into the canal.

(2) Where the county council, or an urban or rural district council, or the Coal Board, discharge water or sewage effluent under a terminable agreement into any part of the canal to be dewatered under this Scheme, such agreement shall (subject to the provisions of section 12 of this Scheme) be deemed to be terminated at the commencement of this Scheme and, in respect of the remainder of the canal, upon the giving of a notice of intention to dewater by the owner for the time being of that part of the canal, and the county council, or the district council, or the Coal Board, as the case may be, shall make provision for the conveyance of such water or sewage effluent to an alternative channel instead of the canal.

17.—(1) The cesser of the Canal Acts shall not affect any right subsisting immediately before the commencement of this Scheme to water cattle, or to take fish, from any part of the canal, but such right may be determined in accordance with any right of termination then subsisting, or by agreement between the person in whom the right is for the time being vested and the owner for the time being of the part of the canal in respect of which it is exercisable, or in accordance with subsection (2) of this section.

Cattle watering and fishing rights.

(2) The owner for the time being of any part of the canal in respect of which any such right is exercisable may at any time, and shall, before altering that part of the canal in such a way as materially to interfere with the exercise of such right, give to the person in whom the same is vested not less than six months' notice terminating such

4TH SCH.
—cont.

right, and shall thereupon, unless otherwise agreed, pay to such person such compensation for the termination or premature termination thereof as may be agreed or determined by arbitration.

(3) Before draining or dewatering any part of the canal, the owner for the time being shall provide a reasonable opportunity for the river board to take any fish in such part of the canal.

Fences.

18.—(1) Notwithstanding anything in section 3 (Canal Acts not to apply) of this Scheme, the provisions relating to posts, rails, hedges, ditches, mounds or other fences, and to gates and stiles contained in section 47 of the Act 33 Geo. 3 c. cxv, shall continue in force and shall have effect in respect of each part of the canal as if the owner for the time being of that part of the canal had been referred to therein instead of the Commission as successors to the Dearne and Dove Canal Company.

(2) Any rights and obligations arising from such provisions may be terminated or varied as regards any part of the canal by agreement between the owner for the time being of that part of the canal and the owner and occupier for the time being of the land adjoining to that part of the canal.

(3) Before dewatering or draining any part of the canal the owner for the time being shall, if reasonably required by the owner of any land adjoining that part of the canal in respect of which there is no liability to maintain a fence under subsection (1) of this section, erect and maintain a fence against cattle between that part of the canal and such adjoining land.

Provision of
culverts in
embankments.

19.—(1) Where an embankment is substituted for any bridge referred to in section 5, 6 or 9 of this Scheme, the body or person effecting such substitution (in this section referred to as "the bridge owner") shall, if reasonably required by the river board, the drainage board or the Coal Board, or the owner for the time being of any part of the canal adjoining the part of the canal vested in the bridge owner, provide such culvert or culverts as may be reasonably necessary to allow the free passage of water through the embankment:

Provided that, if the Coal Board require a highway authority to instal any culvert of a larger cross-sectional area than three square feet, the additional cost, above the cost of installing a culvert of that area, shall be repaid by the Coal Board to the highway authority.

(2) The owner for the time being of the land at each end of any such culvert shall be responsible for keeping the same free from obstruction, not due to want of repair of the culvert, and the owner for the time being of the culvert shall be responsible for keeping the same properly repaired and free from any obstruction due to want of repair:

Provided that, so long as any land coloured brown on the signed plan which is transferred to a highway authority under the provisions of section 5 of this Scheme remains vested in that authority, the owner for the time being of the part of the canal adjoining the said land coloured brown shall be responsible for keeping any such culvert free

from obstruction, not due to want of repair, and may exercise over that land all such rights as may reasonably be required for the purpose of meeting his obligations under this subsection.

4TH SCH.
—cont.

(3) Subject to the provisions of this subsection, no culvert shall be required under this section in respect of a bridge which traverses a part of the canal to be dewatered in pursuance of this Scheme:

Provided that—

- (i) before substituting an embankment for a bridge situated on any land referred to in paragraph (b) of subsection (3) of section 5 of this Scheme the highway authority shall give to the Coal Board not less than twenty-eight days' notice in writing of their proposals, and if within the said period of twenty-eight days the Coal Board so require, the highway authority shall provide such culvert or culverts as may be reasonably necessary for the purpose of accommodating a pipe or pipes constructed or proposed to be constructed by the Coal Board in pursuance of the said paragraph (b);
- (ii) the proviso to subsection (1) of this section shall apply in respect of any culvert provided under this subsection.

20. The provisions of this Scheme shall, as between the Commission and the Coal Board, but not otherwise, have effect subject to any agreement between the Commission and the Coal Board, whether made before or after the commencement of this Scheme.

Agreements
between
Commission
and Coal
Board.

21. Each part of the canal shall until the use thereof is changed pursuant to permission in that behalf granted under Part III of the Town and Country Planning Act, 1947—

Application
of certain
statutory
provisions.

- (a) be deemed to be a watercourse for the purposes of section 259 of the Public Health Act, 1936; and
- (b) be deemed to be a vacant site for the purposes of section 33 of the Town and Country Planning Act, 1947:

Provided that—

- (i) the county council may, in addition to a local authority as defined in section 1 of the Public Health Act, 1936, enforce the provisions of Part III of that Act where they apply by virtue of this section; and
- (ii) the council of a county district in whose district any part of the canal is situate shall, in addition to the local planning authority, be entitled to enforce the provisions of section 33 of the Town and Country Planning Act, 1947.

22. Any difference arising under this Scheme between any of the bodies named in this Scheme, any highway authority, and any owner for the time being of any part of the canal or of adjoining land, or any

Arbitration

4TH SCH.
—cont.

two or more of such parties (other than a difference as to the construction of this Scheme) shall, unless otherwise provided, be referred to and settled by a single arbitrator to be agreed between the parties to the difference or, failing such agreement, to be appointed on the application of any of the parties thereto (after notice in writing to the others) by the President of the Institution of Civil Engineers.

SCHEDULE A

No. and colour on signed plan (1)	Body in whom to vest (2)	Other bodies to be satisfied (3)	Requirements prior to transfer (4)
1 Uncoloured		The County Council The Worsbrough Council The River Board The Drainage Board	(a) Dewater and remove substantial refuse. (b) Remove and leave as an open watercourse the culvert under the canal at the Barnsley/Worsbrough Boundary.
2 Pink	The Coal Board	The County Council The Worsbrough Council	Demolish the locks, dewater and fill in to such extent as is practicable by bulldozing in of the banks.
3 Pink	The Coal Board	The County Council The Wombwell Council	Dewater and fill in, demolish lock west of Aldham Bridge.
4 Blue	The Wombwell Council	The County Council	Dewater and fill in.
5 Blue	The Wombwell Council	The County Council The River Board The Drainage Board	(a) Clean out, removing foreign material and applying silt and weed growth to consolidate banks. (b) Provide such work as may be necessary to permit of the discharge of surplus water into Knoll Beck. (c) Break down side walls and banks of the two locks and grade them so as to form cascades of reasonable gradients and construct permanent weirs at the north-west end of each lock.

No. and colour on signed plan (1)	Body in whom to vest (2)	Other bodies to be satisfied (3)	Requirements prior to transfer (4)
6 Uncoloured		The County Council The Rotherham Council The River Board The Drainage Board	(a) Demolish the lock, dewater and fill in to such an extent as is practicable by bulldozing the banks. (b) Remove and leave as an open watercourse the culvert carrying Knoll Beck under the canal.
7 Yellow	The Rotherham Council	The County Council	(a) Dewater, remove substantial refuse and place in a reasonably clean and dry condition. (b) Smooth out embankments between western end of sewage works and Knoll Beck Bridge so as, to such extent as practicable, to reconcile the level of the filled-in canal with that of the adjoining land. (c) Demolish the lock.
8 Uncoloured		The County Council The Rotherham Council	Dewater and remove substantial refuse.
9 Green 10	The Wath Council	The County Council	(a) Dewater. (b) Bulldoze in and smooth out embankments.
11 Green	The Wath Council	The County Council	(a) Dewater, remove substantial refuse and place in a reasonably clean and dry condition. (b) Bulldoze in and smooth out embankments at rear of dwelling-houses in Oakland Terrace, on north side of canal located a short distance to the south-east of Wet Moor Bridge.
12 Green	The Wath Council	The County Council	Dewater and bulldoze in and smooth out the embankments.
13 Purple	The County Council		Dewater, remove substantial refuse and place in a reasonably clean and dry condition.

4TH SCH.
—cont.

No. and colour on signed plan (1)	Body in whom to vest (2)	Other bodies to be satisfied (3)	Requirements prior to transfer (4)
14 Pink	The Coal Board	The County Council The Wath Council	Dewater.
15 Buff	The Swinton Council	The County Council	Dewater and demolish locks.
16 Pink	The Coal Board	The County Council The Worsbrough Council	Dewater and remove substantial refuse.
17 Pink	The Coal Board	The County Council The Worsbrough Council	Dewater and fill in to tow-path level in a manner which will not make the length susceptible to becoming waterlogged, or interfere with the natural drainage of the land from the higher side of the canal to the lower side.
18 Purple	The County Council	The River Board The Drainage Board	Provide an outfall to the River Dove.
19 Pink	The Coal Board	—	—
20 Blue	The Wombwell Council	The County Council	Dewater and bulldoze in and smooth out embankments.
21 Pink	The Coal Board	The County Council The Wombwell Council	(a) Break down side walls and banks of and grade all locks (except Elsecar Low Lock) so as to form cascades of reasonable gradients and provide permanent weirs at suitable places in all locks. Break down the side walls and banks of the Elsecar Low Lock and construct a weir. (b) Restore as an open watercourse and for that purpose clear of weeds or other growth so as to make a clear clean channel capable of remaining full of water.

No. and colour on signed plan (1)	Body in whom to vest (2)	Other bodies to be satisfied (3)	Requirements prior to transfer (4)
22 Pink	The Coal Board	The County Council The Hoyland Nether Council	(a) Provide permanent weirs at suitable places in all locks. (b) Restore as an open watercourse and for that purpose clear of weeds or other growth so as to make a clear clean channel capable of remaining full of water.
23 Pink	The Coal Board	—	—

SCHEDULE B

No. and colour on signed plan (1)	Obligations and conditions (2)
2, 3. Pink	To keep in a reasonably clean and dry condition so as to prevent its being a nuisance or offence to the general amenities and rural appearance of the surrounding area.
14. Pink	To fill in.
16, 17 Pink	To keep in a reasonably clean and dry condition so as to prevent its being a nuisance or offence to the general amenities and rural appearance of the surrounding area.
19. Pink	(a) To make good and restore to substantially its present condition any part of the Worsbrough Reservoir and the works appertaining thereto which may at any time be interfered with by the Coal Board for the purpose of abstracting coal from under or near thereto. (b) To maintain the Worsbrough Reservoir as a reservoir at all times subject to any temporary interference therewith which may be necessary to permit the Coal Board to abstract coal from under or near to the reservoir.
21. Pink	(a) To maintain the towpath in good condition and not to interfere with the pedestrian use thereof. (b) To maintain as a clear clean channel full of water.

4TH SCH. —cont.	No. and colour on signed plan (1)	Obligations and conditions (2)
	22. Pink	<p>(a) To maintain the towpath in good condition and not to interfere with the pedestrian use thereof.</p> <p>(b) To permit a reasonable length of the canal in the vicinity of Cob Car Bridge to be used as a pool for bathers.</p> <p>(c) To maintain this length as a clear clean channel full of water.</p>
	23. Pink	<p>(a) To maintain the Elsecar Reservoir as a reservoir at all times and to keep the water therein to a level equivalent to a depth of four feet ten inches on the sill of the lower culvert, the location of which is indicated by the letters "L.C." on the signed plan: Provided the Coal Board shall be under no obligation to keep water in the Elsecar Reservoir at all, or to the said depth, during any period during which it is reasonably necessary for the Coal Board to dewater the reservoir, either wholly or in sections, or to lower the level of the water therein below the said depth, either in order to comply with the requirements of any report made by an engineer appointed to inspect the reservoir under the Reservoirs (Safety Provisions) Act, 1930, or in order to enable the Coal Board to work and abstract any coal under or near to the reservoir or to afford supplies of water to their collieries necessary for the efficient operation thereof.</p> <p>(b) To so exercise their rights of ownership of and in respect of Elsecar Reservoir, including the rights reserved in the proviso to paragraph (a) as to preclude any reasonably avoidable prejudicing of the facilities now enjoyed by the Hoyland Nether Council under a tenancy of part of the reservoir or the recreational use of the adjoining land owned by that council.</p> <p>(c) So far as the same will not cause any interference with the use of the Elsecar Reservoir by the Coal Board for their own purposes to grant reasonable extensions to the Hoyland Nether Council of the recreational facilities afforded through their existing tenancy of a part of the reservoir.</p>

FIFTH SCHEDULE

Section 18

REDEVELOPMENT SCHEME FOR PART OF ASHTON CANAL

1. The Scheme contained in this schedule may be cited as the Ashton Canal (Droylsden) Redevelopment Scheme, 1961, and shall come into operation on the first day of October, nineteen hundred and sixty-one. Short title and commencement.

2. In this Scheme—

- “ the canal ” means so much of the Hollinwood Branch of the Ashton Canal as lies between its commencement by a junction with the main canal at Fairfield and the boundary of the urban district of Droylsden at Waterhouses Bridge, being situate in the urban district of Droylsden in the county of Lancaster; Interpretation.
- “ the Canal Acts ” means the Act 32 Geo. 3 c. lxxxiv, the Act 38 Geo. 3 c. xxxii and the Act 11 & 12 Vic. c. lxxxvi;
- “ the Commission ” means the British Transport Commission;
- “ the council ” means the Droylsden Urban District Council;
- “ the county council ” means the county council of the administrative county of the county palatine of Lancaster;
- “ the signed plan ” means the plan signed in quadruplicate by Sir William John Anstruther-Gray, the chairman of the Committee of the House of Commons to whom the Bill for the Act confirming this Scheme was referred, of which 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, one copy at the principal office of the Commission and one copy at the office of the clerk of the council.

3. The Canal Acts shall, on the commencement of this Scheme, cease to apply to the canal except as otherwise provided in this Scheme. Canal Acts not to apply.

4. Where immediately before the commencement of this Scheme the Commission had power under the Canal Acts to take water from any source for the canal, the like power shall, subject to all restrictions on the exercise thereof contained in the Canal Acts, continue to be exercisable by the Commission for the purposes of this Scheme. Saving for powers to take water.

5.—(1) In this section “ the bridge ” means the bridge vested in and repairable by the county council, by which Manchester Road is carried over the canal. Manchester Road Bridge.

(2) Upon the commencement of this Scheme the land coloured pink on the signed plan (being the canal under the bridge and other land of the Commission upon which portions of the bridge have been constructed) shall, by virtue of this Scheme and without any further assurance, be transferred to and vest in the county council for all the estate and interest of the Commission therein, and the agreement relating to the bridge dated the eleventh day of November, nineteen hundred and twenty-nine and made between the London and North Eastern Railway Company and the county council shall cease to have effect.

5TH SCH.
—cont.

(3) Upon the commencement of this Scheme there shall vest in the Commission, by virtue of this Scheme and without any further assurance, an easement in perpetuity for the passage of water along the canal under the bridge and an easement or right to construct under the bridge a line or lines of pipes as a water channel in substitution for the canal and to inspect, maintain and use and from time to time to renew or replace any such pipeline or pipelines and for those purposes or any of them to enter upon the lands vested in the county council by virtue of this section.

(4) If the county council substitute an embankment for the bridge they shall, if required by the Commission, provide and maintain such openings or culverts through the embankment as may be reasonably necessary to allow the free passage of water through the embankment or to accommodate any pipeline or pipelines constructed or proposed to be constructed by the Commission as a water channel in substitution for the canal and to enable the Commission without additional expense to construct, maintain and renew such pipeline or pipelines.

Greenside
Lane Bridge
and Medlock
Street Bridge.

6.—(1) The Commission shall, at the request in writing of the council, grant to the council all such rights as they may reasonably require for the substitution of an embankment for the bridge carrying Greenside Lane over the canal or for the swing bridge known as Medlock Street Bridge and the adjoining footbridge.

(2) If the council at any time substitute an embankment for either of the said bridges they shall, if required by the Commission, provide and maintain such openings or culverts through the embankment as may be reasonably necessary to allow the free passage of water through the embankment or to accommodate any pipeline or pipelines constructed or proposed to be constructed by the Commission as a water channel in substitution for the canal and to enable the Commission without additional expense to construct, maintain and renew such pipeline or pipelines.

Water supplies.

7.—(1) The Commission may enter into and carry into effect agreements for the supply of water by the Commission from any line or lines of pipes which may be constructed by them as a water channel in substitution for any part of the canal to any statutory water undertaker or to any person being the owner, lessee or occupier of land abutting on or near to the canal for use on that land.

(2) The Commission shall not under the powers of this section supply any water other than untreated water obtained for supplying the Ashton Canal, and nothing in this section shall be deemed to constitute the Commission statutory water undertakers for the purposes of the Water Acts, 1945 and 1948.

(3) (a) Except as provided in this subsection, the cesser of the Canal Acts shall not affect any right exercised before and subsisting at the commencement of this Scheme to take water or to be supplied with water from the canal, but such right may be determined in accordance with any right of termination then subsisting or by agreement between the Commission and the person in whom the right is for the time being vested (in this section referred to as "the consumer").

(b) The Commission may terminate any such right (whether statutory or otherwise) which has not been terminated in accordance with paragraph (a) of this subsection by giving to the consumer not less than six months' notice in writing to terminate the same, provided that every notice served under this paragraph shall be accompanied by a copy of this Scheme.

(c) Where notice of termination is given in accordance with paragraph (b) of this subsection, the consumer may, by notice in writing given to the Commission within two months after the receipt by him of the notice of termination, require the Commission at their option either—

- (i) to supply him with water, or to permit him to take water, from a pipeline constructed or to be constructed by the Commission as a water channel in substitution for the canal or part thereof, in such quantities, for such period and upon such other terms and conditions as to payment or otherwise as may be agreed, or, failing agreement, as may be determined by the Minister of Housing and Local Government to be reasonable to secure to the consumer rights as nearly as may be equivalent to the rights to be terminated, to the extent to which such rights were exercised immediately before the commencement of this Scheme and having regard to such other circumstances as may appear to the Minister to be relevant; or
- (ii) to pay to the consumer such sum of money as compensation for any loss suffered by the termination or premature termination of his rights as may be agreed or determined by arbitration.

8. Notwithstanding the cesser of the Canal Acts the owner for Fences. the time being of any part of the canal shall be liable to maintain any fence between that part of the canal and the adjoining land which the Commission were liable to maintain immediately before the commencement of this Scheme but such liability may at any time be terminated by agreement between such owner and the owner for the time being of such adjoining land.

9.—(1) When the requirements referred to in this section have been carried out by the Commission, the council shall, by writing under the hand of their clerk, certify in duplicate that such requirements have been so carried out. Vesting of canal in Droylsden Council.

(2) If in the opinion of the Commission any such certificate has been unreasonably refused, the Commission may refer the matter to arbitration, and the arbitrator shall, when the requirements referred to in this section have been carried out to his satisfaction, certify in duplicate that such requirements have been so carried out.

(3) The requirements referred to in this section are—

- (a) the construction of a dam at the south-westerly end of the canal;
- (b) the construction of a line or lines of pipes as a water channel in substitution for the canal between the main Ashton Canal

5TH SCH.
—cont.

- and a point between the bridge carrying the Manchester Road over the canal and Medlock Street Bridge to be determined by the Commission;
- (c) the diversion to such line or lines of pipes, or to suitable drains, sewers or watercourses, of all surface water or other drainage now passing into the canal;
 - (d) the removal of the water from the canal, or from so much thereof as the council may reasonably require;
 - (e) the erection of fences across the dam referred to in requirement (a) and across the canal on each side of the railway near Droylsden Junction:

Provided that requirements (c) and (d) shall not apply to that part of the canal extending for a distance of six hundred yards in a south-westerly direction from Cinderland Bridge which is intended to be retained as a source of water for Lumb Mill.

(4) Upon the grant of a certificate under this section, the land forming the site of the canal coloured blue on the signed plan shall, by virtue of this Scheme and without any further assurance, be transferred to and vest in the council for all the estate or interest of the Commission therein, but subject to the following provisions of this section.

(5) Upon the grant of such certificate there shall vest in the Commission, by virtue of this Scheme and without any further assurance, an easement or right upon, under or over the land coloured blue on the signed plan between the intended dam and Medlock Street Bridge to inspect, maintain and use and from time to time to renew or replace any pipeline or work connected therewith which may have been constructed by the Commission as a water channel in substitution for the canal, or any part thereof, or for supplying water from any such pipeline or work, and from time to time to construct, inspect, maintain, renew and replace any additional pipe or work which may be required for the purposes of any supply of water authorised or required to be given or taken in pursuance of this Scheme, and for those purposes, or any of them, to enter upon the lands vested in the council by virtue of this section:

Provided that the Commission shall, after executing any such works, restore the surface of such lands to the reasonable satisfaction of the council.

(6) The council shall pay to the Commission, in consideration of the transfer of the canal to them by virtue of this section, such sum of money as may be agreed or, in default of agreement, as may be determined by the Lands Tribunal.

(7) All agreements, contracts, leases, conveyances, deeds of grant of rights or easements, and other instruments legally made, entered into or granted by or with the Commission, or the predecessors in title of the Commission, and in force on the date of the vesting of the canal in the council, and relating to, or in so far as they relate to, the canal shall, on and after that date, be as binding and of as full

force and effect against or in favour of the council, and be enforceable as fully and effectually, as if the council had been a party thereto instead of the Commission or the predecessors in title of the Commission:

5TH SCH.
—cont.

Provided that this subsection shall not apply to any agreement or other instrument in so far as it relates to or regulates the supply or taking of water from the canal, or from any pipeline constructed by the Commission as a water channel in substitution for the canal.

(8) The production of a copy of this Scheme, printed by the Queen's Printer, duly stamped, together with a receipt for the sum of money paid by the council to the Commission in pursuance of subsection (6) of this section purporting to be signed by a member and the chief secretary of the Commission shall (unless it is proved that the said sum of money has not been paid) be conclusive evidence in all courts and proceedings of the transfer to the council of the land coloured blue on the signed plan and of its vesting in them.

10.—(1) The Commission may, after giving not less than six months' notice thereof to the council, remove the aqueduct carrying the canal and towpath over the railway to the west of Droylsden Station and, upon the commencement of such removal, may stop up and discontinue the footpath along so much of the towpath as is carried by the aqueduct.

As to
aqueduct and
footpath over
railway.

(2) The Commission shall, if requested in writing by the council at any time within twenty years after the vesting of the canal in the council by virtue of this Scheme, grant to the council an easement or right to construct and maintain a footbridge over the railway to the west of Droylsden Station at or near to the site of the present aqueduct, without any payment or other consideration, but subject to such terms and conditions as the Commission may reasonably impose to ensure the erection and proper maintenance of a suitable structure without any expense to the Commission.

11. Except as otherwise provided, any difference arising under this Scheme between the Commission and the council or a highway authority (other than a difference as to the construction of this Scheme) shall, unless otherwise agreed, be referred to and settled by a single arbitrator to be agreed between the parties to the difference, or, failing such agreement, to be appointed on the application of either of them (after notice in writing to the other) by the President of the Institution of Civil Engineers.

Arbitration.

Section 27

SIXTH SCHEDULE

LANDS REFERRED TO IN SUBSECTION (2) OF SECTION 27 (POWER TO
ACQUIRE LANDS) OF THIS ACT

Area (1)	No. on deposited plans (2)	Purposes for which the lands may be used (3)
In the county of Chester— Parish of Elton in the rural district of Congleton	2, 6	To provide the land numbered 6 on the deposited plans with a substituted means of access to Oakwood Lane.
In the county of Devon— Parish of Upton Pyne in the rural district of St. Thomas	1 to 3	For the filling in of water- courses rendered unnecessary by the construction of Works Nos. 9, 10 and 11.
In the county of Essex— Borough of Romford ...	1	For extension of car park.
In the county of Middlesex— Borough of Tottenham ...	1 to 3	To provide a ventilation outlet for Works Nos. 1 and 2 authorised by the Act of 1957.
In the North Riding of the county of York— Borough of Thornaby-on- Tees	1	To extend a railway marshalling yard.
In the city and county borough of Exeter	1 to 5, 8	For the filling in of water- courses rendered unnecessary by the construction of Works Nos. 9, 10 and 11.

SEVENTH SCHEDULE

Section 28

DESCRIBING PROPERTIES WHEREOF PORTIONS ONLY MAY BE TAKEN
 COMPULSORILY

Area (1)	No. on deposited plans (2)
WORK No. 1	
City of London	3, 5 to 9, 16 and 17.
Borough of Stepney	1, 4 to 10, 12 to 14.
WORK No. 2	
City of London	21, 23 to 32, 34, 35, 37 to 41, 43 to 46, 48 to 54, 56, 57, 58, 60.
WORK No. 5	
City of Westminster	13, 14, 16 to 18.
WORKS NOS. 6 AND 7	
Royal Borough of Kensington	2 to 4, 6 and 7.
WORK No. 14	
Parish of Elton	2, 3, 6.
Urban district of Sandbach	1.
ADDITIONAL LAND AT THORNABY-ON-TEES	
Borough of Thornaby-on-Tees	1.

Section 31

EIGHTH SCHEDULE

DESCRIBING PROPERTIES IN RESPECT OF WHICH EASEMENTS MAY BE
TAKEN AS PROVIDED BY SECTION 31 (POWER TO ACQUIRE EASEMENTS
ONLY IN CERTAIN CASES) OF THIS ACT

Area (1)	No. on deposited plans (2)
WORK No. 1	
City of London	3, 5 to 9, 16 and 17.
Borough of Stepney	1, 4 to 10, 12 to 14.
WORK No. 5	
City of Westminster	13, 14, 16, 17, 18.
WORKS NOS. 6 AND 7	
Royal Borough of Kensington	2, 3, 4, 6, 7.

NINTH SCHEDULE

Section 68

ENACTMENTS REFERRED TO IN SECTION 68 (REPEALS) OF THIS ACT

Session and chapter (1)	Short title (2)	Extent of repeal (3)
8 & 9 Vict. c. cxiii	The London and Brighton, Horsham Branch, Railway Act, 1845	<p>In section XI (Stations to be erected in Ruser and Horsham or one of them) the words "together with an additional line of Rails running from and out of the said Railway into and upon the said Station, for the purpose of loading and unloading Goods, Coals and other commodities".</p> <p>In section XII (At which Trains are to stop twice a day) the words "Goods, and other Traffic".</p>
10 & 11 Vict. c. cclxxxvii	The Great Northern Railway (Deviations between London and Grantham) Act, 1847	Section VII (Protecting River during the Construction of Works).
24 & 25 Vict. c. clxxiv	The Brighton, Uckfield and Tunbridge Wells Railway Act, 1861	In section 19 (Company to erect Station at Hamswell Bridge) the words "and for the loading and unloading of Goods".
34 & 35 Vict. c. clxvii	The South-western Railway General Act, 1871	Section 7 (Trains passing through Poole to stop at station).

TENTH SCHEDULE

PART I

LANDS THE PERIOD FOR THE COMPULSORY ACQUISITION OF WHICH IS
EXTENDED BY THIS ACT TO 31ST DECEMBER, 1964

The lands authorised to be acquired by section 21 (Power to acquire lands) of the Act of 1958—

- (a) for the purposes of Works Nos. 5, 8, 13, 14, 15, 18 and 19 authorised by Part II (Works) of the said Act;
- (b) in the places hereinafter mentioned—

In the county of Surrey—

In the borough of Reigate;

In the West Riding of the county of York—

In the parish of Shafton in the rural district of Hemsworth;

In the county of West Sussex—

In the urban district of Crawley.

PART II

LANDS THE PERIOD FOR THE COMPULSORY ACQUISITION OF WHICH IS
EXTENDED BY THIS ACT TO 31ST DECEMBER, 1967

(1) The lands authorised to be acquired by section 23 (Power to acquire lands) and section 27 (Easements only to be acquired under certain lands) of the Act of 1955 for the purposes of Works Nos. 1 to 14 authorised by Part II (Works) of the said Act.

(2) The lands authorised to be acquired by section 25 (Power to acquire lands) and section 30 (Easements only to be acquired under certain lands) of the Act of 1957 for the purposes of Works Nos. 1 and 2 authorised by Part II (Works) of the said Act.

PART III

WORKS THE PERIOD FOR THE COMPLETION OF WHICH IS EXTENDED BY
THIS ACT TO 31ST DECEMBER, 1967

(a) Deviation Railways Nos. (1) and (2) authorised by section 5 (Power to Company to make deviation railways and railway widenings) of the Great Northern Railway Act, 1914.

(b) Work No. 4 (Railway No. 3) authorised by section 5 (Power to Company to make railways) of the London and North Eastern Railway (Works) Act, 1930.

(c) The railway authorised by section 6 (Power to make railway and widenings) of the Southern Railway Act, 1930.

(d) Railway (No. 1) authorised by section 5 (Power to make railways) of the Southern Railway Act, 1935.

(e) Work No. 1 authorised by Part III (Works) of the London Passenger Transport Act, 1935.

*Table of Statutes referred to in this Act other than those referred to in the
Third, Fifth and Ninth Schedules*

Title or short title	Session and chapter
An Act for making a railway from Bristol to Exeter with Branches to the Towns of Bridgwater in the County of Somerset and Tiverton in the County of Devon	6 Will. 4 c. xxxvi.
Highway (Railway Crossings) Act, 1839 ...	2 & 3 Vict. c. 45.
Railway Regulation Act, 1842	5 & 6 Vict. c. 55.
Lands Clauses Consolidation Act, 1845 ...	8 & 9 Vict. c. 18.
Railways Clauses Consolidation Act, 1845	8 & 9 Vict. c. 20.
Harbours, Docks and Piers Clauses Act, 1847	10 & 11 Vict. c. 27.
Staines Wokingham and Woking Railway Act, 1853	16 & 17 Vict. c. lxxxv.
London Chatham and Dover Railway (Metropolitan Extensions) Act, 1860	23 & 24 Vict. c. clxxvii.
London and North Western Railway (Eccles, Tyldesley and Wigan) Act, 1861	24 & 25 Vict. c. cxxx.
East Grinstead Groombridge and Tunbridge Wells Railway Act, 1862	25 & 26 Vict. c. ccvii.
Railways Clauses Act, 1863	26 & 27 Vict. c. 92.
Humber Conservancy Act, 1868	31 & 32 Vict. c. lviii.
Telegraph Act, 1878	41 & 42 Vict. c. 76.
London Chatham and Dover Railway (Further Powers) Act, 1884	47 & 48 Vict. c. cxlviii.
Humber Commercial Railway and Dock Act, 1904	4 Edw. 7 c. lxxxv.
Great Northern Railway Act, 1914	4 & 5 Geo. 5 c. clvi.
Mercantile Marine Memorial Act, 1927 ...	17 & 18 Geo. 5 c. xxvi.
Land Drainage Act, 1930	20 & 21 Geo. 5 c. 44.
Reservoirs (Safety Provisions) Act, 1930	20 & 21 Geo. 5 c. 51.
London and North Eastern Railway (Works) Act, 1930	20 & 21 Geo. 5 c. lv.
Southern Railway Act, 1930	20 & 21 Geo. 5 c. clxviii.
London Passenger Transport Act, 1933 ...	23 & 24 Geo. 5 c. 14.
Southern Railway Act, 1935	25 & 26 Geo. 5 c. xlix.
London Passenger Transport Act, 1935 ...	25 & 26 Geo. 5 c. cx.
Public Health Act, 1936	26 Geo. 5 & 1 Edw. 8 c. 49.
London Midland and Scottish Railway Act, 1944	7 & 8 Geo. 6 c. i.
Water Act, 1945	8 & 9 Geo. 6 c. 42.
Transport Act, 1947	10 & 11 Geo. 6 c. 49.
Town and Country Planning Act, 1947 ...	10 & 11 Geo. 6 c. 51.
Water Act, 1948	11 & 12 Geo. 6 c. 22.
River Boards Act, 1948	11 & 12 Geo. 6 c. 32.
British Transport Commission Act, 1949	12 & 13 Geo. 6 c. xxix.
Lands Tribunal Act, 1949	12, 13 & 14 Geo. 6 c. 42.
Vehicles (Excise) Act, 1949	12, 13 & 14 Geo. 6 c. 89.
Public Utilities Street Works Act, 1950 ...	14 Geo. 6 c. 39.
British Transport Commission Act, 1950	14 Geo. 6 c. liii.
Dee and Clwyd River Board Act, 1951 ...	14 & 15 Geo. 6 c. xxi.
Merchant Navy Memorial Act, 1952	15 & 16 Geo. 6 & 1 Eliz. 2 c. xv.
British Transport Commission Act, 1952	15 & 16 Geo. 6 & 1 Eliz. 2 c. xxxiv.
Transport Act, 1953	1 & 2 Eliz. 2 c. 13.

Title or short title	Session and chapter
Landlord and Tenant Act, 1954	2 & 3 Eliz. 2 c. 56.
British Transport Commission Act, 1954	2 & 3 Eliz. 2 c. lv.
British Transport Commission Act, 1955	4 Eliz. 2 c. xxx.
British Transport Commission Act, 1956	4 & 5 Eliz. 2 c. lxxiv.
British Transport Commission Act, 1957	5 & 6 Eliz. 2 c. xxxiii.
British Transport Commission Act, 1958	6 & 7 Eliz. 2 c. xlv.
Highways Act, 1959	7 & 8 Eliz. 2 c. 25.
British Transport Commission Act, 1959	7 & 8 Eliz. 2 c. xlv.
Humber Bridge Act, 1959	7 & 8 Eliz. 2 c. xlvi.
Road Traffic Act, 1960	8 & 9 Eliz. 2 c. 16.
British Transport Commission Act, 1960	8 & 9 Eliz. 2 c. xlvii.
Land Compensation Act, 1961	9 & 10 Eliz. 2 c. 33.

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9 & 10 ELIZ. 2 Ch. xxxvi

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Part II.

Part III.

Third Schedule—The waterways referred to in section 16 (Interpretation of Part III) of this Act.

Fourth Schedule—Redevelopment Scheme for part of Dearne and Dove Canal.

Fifth Schedule—Redevelopment Scheme for part of Ashton Canal.

Sixth Schedule—Lands referred to in subsection (2) of section 27 (Power to acquire lands) of this Act.

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

Eighth Schedule—Describing properties in respect of which easements may be taken as provided by section 31 (Power to acquire easements only in certain cases) of this Act.

Ninth Schedule—Enactments referred to in section 68 (Repeals) of this Act.

Tenth Schedule—

Part I—Lands the period for the compulsory acquisition of which is extended by this Act to 31st December, 1964.

Part II—Lands the period for the compulsory acquisition of which is extended by this Act to 31st December, 1967.

Part III—Works the period for the completion of which is extended by this Act to 31st December, 1967.