



CHAPTER xxi.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to the British Transport Commission.

[30th July 1948.]

WHEREAS the Provisional Order set forth in the schedule hereunto annexed has been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936 and it is requisite that the said Order should be confirmed by Parliament: 26 Geo. 5. & 1 Edw. 8. c. 52.

Be it therefore enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

1. The Provisional Order contained in the schedule hereunto annexed is hereby confirmed. Confirmation of Order in schedule.
2. This Act may be cited as the British Transport Commission Order Confirmation Act 1948. Short title.

SCHEDULE.

BRITISH TRANSPORT COMMISSION.

Provisional Order to empower the British Transport Commission to construct works and to acquire additional lands in Scotland to confer further powers on the Commission and for other purposes.

10 & 11
Geo. 6. c. 49.

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

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

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

And whereas it is expedient that the other powers mentioned in this Order should be conferred:

And whereas plans and sections showing the lines and levels of the works to be constructed under the powers of this Order and plans of the lands authorised to be acquired by this Order and a book of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands were duly deposited with the sheriff clerks of the several counties 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 Order as the deposited plans sections and book of reference:

26 Geo. 5. &
1 Edw. 8. c. 52.

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary of State orders as follows:—

Short title.

1. This Order may be cited for all purposes as the British Transport Commission Order 1948.

Interpretation.

2. In this Order 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 partially incor-

Commission Order Confirmation Act, 1948.

porated herewith have in relation to the relative subject matter the same respective meanings. And—

“ 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 Lands Clauses Acts ” means the Lands Clauses Acts as modified by the Acquisition of Land (Assessment of Compensation) Act 1919 as such last-mentioned Act is amended by the Acquisition of Land (Assessment of Compensation) (Scotland) Act 1931 by the Town and Country Planning (Scotland) Act 1947 and by this Order;

9 & 10 Geo. 5.
c. 57.
21 & 22 Geo. 5.
c. 11.
10 & 11 Geo. 6.
c. 53.

“ The tribunal ” means the tribunal or other authority to whom any question of disputed purchase money or compensation under this Order is referred in pursuance of the Acquisition of Land (Assessment of Compensation) Act 1919;

“ The works ” means the works authorised by this Order;

“ Telegraphic line ” has the same meaning as in the Telegraph Act 1878;

41 & 42 Vict.
c. 76.

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

3. The following Acts and parts of Acts so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Order are incorporated with and form part of this Order and this Order shall be deemed to be the special Act for the purposes of the said incorporated enactments (that is to say):—

Incorporation
of general Acts

The Lands Clauses Acts except sections 120 to 124 (inclusive) and section 127 of the Lands Clauses Consolidation (Scotland) Act 1845;

8 & 9 Vict.
c. 19.

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

8 & 9 Vict.
c. 33.

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

26 & 27
Vict. c. 92.

Provided that for the purpose of this Order the expression “ the railway ” where used in the last-mentioned Act of 1845 and in the said Act of 1863 shall be deemed to mean the works and the expression “ the company ” where used in the said Acts shall mean the Commission.

4. Subject to the provisions of this Order the Commission may make and maintain in the lines and in accordance with the levels shown on the deposited plans and sections the works described in this section with all necessary works and conveniences connected therewith and may exercise the powers hereinafter mentioned and may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited book of reference

Power to
Commission to
construct
works.

relating thereto as may be required for those purposes and for any other purposes connected with their undertaking (that is to say):—

In the county of Fife—

Work No. 1. Two bridges under the road leading from Kirkcaldy to Thornton in the parish of Markinch on the north and south sides respectively of the existing bridge carrying the said road over the Dunfermline and Thornton section of the Commission's railway and an alteration of the level of the said road;

Work No. 2. A bridge over the road leading from Oakley to Torry in the parish of Carnock on the north side of the existing bridge carrying the Stirling and Dunfermline section of the Commission's railway over the said road:

In the county of the city of Edinburgh—

Work No. 3. A bridge over Roseburn Street in the city parish of Edinburgh on the north side of the existing bridge carrying the Saughton and Haymarket section of the Commission's railway over the said street and of a height above the said street not less than the minimum height of the said existing bridge.

For protection
of Fife County
Council.

5. For the protection of the county council of the county of Fife (in this section referred to as "the council") the following provisions shall notwithstanding anything in this Order or shown upon the deposited plans and sections and unless otherwise agreed in writing between the council and the Commission apply and have effect:—

- (1) The Commission shall in constructing Work No. 1 construct the two bridges under the road leading from Kirkcaldy to Thornton of a width between the parapets of 50 feet and on completion of Work No. 1 the council shall repay to the Commission the additional cost as certified by the Commission's engineer of constructing the said bridges of a width of 50 feet instead of constructing the same of a width of 35 feet between the parapets;
- (2) The Commission shall if they construct Work No. 1 construct and maintain the approaches to the bridges referred to in the preceding paragraph so that the gradient thereof is not steeper at any place than one in thirty and shall provide and maintain adequate fencing on both sides of the approaches to ensure the safety of the public using the public highway;
- (3) The Commission shall in constructing Work No. 2—
 - (a) construct the bridge over the road leading from Oakley to Torry with a clear span of 40 feet between the abutments; and
 - (b) at their expense carry down the abutments and wing walls of the said bridge to such a depth as will enable the council if they should desire to do so without injury to the structure or stability of the bridge to lower the roadway under the bridge to such extent as may be

Commission Order Confirmation Act, 1948.

necessary to provide a clear headway thereunder of 16 feet 6 inches;

and on completion of Work No. 2 the council shall repay to the Commission the additional cost as certified by the Commission's engineer of constructing the said bridge with a span of 40 feet instead of constructing the same with a span of 25 feet between the abutments.

6. For the protection of the corporation of the city of Edinburgh (in this section referred to as "the corporation") the following provisions shall notwithstanding anything contained in this Order or shown upon the deposited plans and sections and unless otherwise agreed in writing between the Commission and the corporation apply and have effect:—

For protection of corporation of City of Edinburgh.

(1) The Commission shall in constructing Work No. 3 carry down the abutments and wing walls of the bridge to such a depth as will enable the corporation without affecting the structure or stability of the said bridge to lower the roadway and foot-pavements under the said bridge to such extent as may be necessary to provide a clear headway throughout of 16 feet 6 inches:

(2) The Commission shall pay to the corporation for the purpose of providing such headway the cost incurred by the corporation—

(a) in lowering that portion of the roadway and foot-pavements between the points marked A and C on the plan signed in duplicate by Miles Beevor on behalf of the Commission and by John Storrar on behalf of the corporation (in this section referred to as "the signed plan") one copy of which plan has been deposited with the Commission and the other with the town clerk of Edinburgh on behalf of the corporation but only in so far as such lowering of the roadway and footpavements has to be carried out below the level of the line coloured red and drawn between the points marked B and C on the signed plan; and

(b) in re-surfacing that portion of the roadway and foot-pavements lying between the points marked A and B on the signed plan:

(3) The Commission shall also pay to the corporation the cost incurred by the corporation or shall relieve the corporation of any claim made against them (as the case may be) in respect of the alteration of any gas or water pipes or electricity cables or telephone lines or drains sewers or water courses that may be required in consequence of the lowering of the roadway and footpavements for the purpose of providing such headway (a) between the points marked A and B on the signed plan and (b) between the points marked B and C on the signed plan but only in so far as such lowering of the roadway and footpavements has to be carried out below the level of the line coloured red and drawn between the said points B and C on the signed plan:

- (4) The Commission shall adopt all reasonable precautions to prevent at all times water from seeping through the bridge and dripping on to the roadway or footpavements thereunder:
- (5) Any question or difference between the Commission and the corporation arising under this section shall be referred to and determined by an arbiter to be appointed failing agreement by the President of the Institution of Civil Engineers:
 Provided that if in determining any such question or difference any question of law arises the said arbiter shall have power at the request of either party to state a case for the opinion and judgment of the Court of Session and the said court shall determine such question of law:
- (6) Nothing in this section shall affect the existing rights and obligations of the Commission or the corporation in regard to the existing railway bridges crossing Roseburn Street.

Power to
 Commission to
 acquire lands
 &c.

7. Subject to the provisions of this Order the Commission in addition to the other lands which they are authorised by this Order to acquire may for any purposes connected with or ancillary to their undertaking enter upon take use and appropriate all or any of the lands hereinafter described or referred to and delineated on the deposited plans and described in the deposited book of reference relating thereto and in connection therewith the Commission may exercise the powers and construct the works hereinafter mentioned in accordance (so far as the same are shown thereon) with the lines and levels shown on the deposited plans and sections (that is to say):—

In the county of Fife—

- (a) Lands partly in the parish of Kinglassie partly in the parish of Kirkcaldy and Dysart and partly in the parish of Markinch on both sides of and adjoining the Dunfermline and Thornton section of the Commission's railway and extending on the north side of the said railway from a point 2 chains east of the bridge carrying the road leading from Kirkcaldy to Leslie over the said railway in the parish of Kinglassie to the point where the said railway crosses the boundary between the parish of Kirkcaldy and Dysart and the parish of Markinch and extending on the south side of the said railway from the bridge carrying the said railway over the river Ore to a point on the road leading from Kirkcaldy to Thornton $8\frac{1}{2}$ chains south of the bridge carrying the last-mentioned road over the said railway in the parish of Markinch;

And in connection therewith the Commission may—

- (i) Divert the river Ore between points respectively 21 chains measured in a westerly direction and 25 chains measured in an easterly direction along the course of the said river from the bridge carrying the occupation road and public footpath leading from Redford to Kirkcaldy over the said river;

Commission Order Confirmation Act, 1948.

(ii) Stop up and discontinue so much of the occupation road and public footpath leading from Redford to Kirkcaldy as lies between a point 7 chains north of the level crossing whereby the said occupation road and public footpath is crossed on the level by the Dunfermline and Thornton section of the Commission's railway and a point 9 chains south of the said level crossing;

(iii) Stop up and discontinue so much of the occupation road and public footpath leading from the road between Leslie and Thornton to the river Ore as lies between a point $2\frac{1}{2}$ chains north of the level crossing whereby the said occupation road and public footpath is crossed on the level by the Dunfermline and Thornton section of the Commission's railway and a point $10\frac{1}{2}$ chains south of the said level crossing; and

(iv) Construct a new occupation road and public footpath commencing at a point 9 chains south of the level crossing whereby the occupation road and public footpath leading from Redford to Kirkcaldy is crossed on the level by the Dunfermline and Thornton section of the Commission's railway and terminating at a point on the road leading from Kirkcaldy to Thornton $8\frac{1}{2}$ chains south of the bridge carrying the last-mentioned road over the said railway;

- (b) Lands in the parish of Markinch on the south side of and adjoining the Dunfermline and Thornton section of the Commission's railway and extending between points respectively 15 yards and 7 chains east of the bridge carrying the road from Kirkcaldy to Thornton over the said railway;
- (c) Lands partly in the parish of Markinch and partly in the parish of Kirkcaldy and Dysart on the south-east side of and partly adjoining the Dunfermline and Thornton section of the Commission's railway and extending between points on the river Ore respectively 16 chains and $24\frac{1}{2}$ chains east of the road leading from Kirkcaldy to Thornton;

And in connection therewith the Commission may divert the river Ore along a line parallel to and at a distance of 13 yards to the north-west of the south-eastern boundary of the lands authorised to be acquired;

- (d) Lands partly in the parish of Culross partly in the parish of Torryburn and partly in the parish of Carnock on the north side of and adjoining the Stirling and Dunfermline section of the Commission's railway and on the south-west side of and adjoining the Comrie Colliery railway and extending for distances respectively $42\frac{1}{2}$ chains west and 35 chains north-west from the point of junction of the said railways;
- (e) Lands in the parish of Carnock on the north side of and adjoining the Stirling and Dunfermline section of the Commission's railway and extending from the road leading from Oakley to Torry for a distance of 19 chains in an easterly direction;

- (f) Lands in the parish of Beath on the east side of and adjoining the Inverkeithing and Perth section of the Commission's railway and extending between points respectively 10 yards and $19\frac{1}{2}$ chains north-west of the bridge carrying the road leading from Kelty to Hilton of Beath Cottages over the said railway;
- (g) Lands in the parish of Beath on the north-east side of and adjoining the Commission's Lumphinnans and Kelty branch railway and extending between points respectively 2 chains south-east and $9\frac{1}{2}$ chains north-west of the bridge carrying the said railway over the Lochfitty Burn;
- (h) Lands in the parish of Beath on the west side of and adjoining the Inverkeithing and Perth section of the Commission's railway and extending between points respectively 11 yards and 12 chains north-west of the bridge carrying the road leading from Kelty to Hilton of Beath Cottages over the said railway;
- (i) Lands in the city and royal burgh of Dunfermline on the south side of and adjoining the Commission's Dunfermline locomotive depot and comprising the site of a portion of the footpath leading from Townhill Road to Appin Crescent and part of the gardens of the houses known as Numbers 60 $60\frac{1}{2}$ 62 and 64 Appin Crescent Dunfermline;

And in connection therewith the Commission may stop up and discontinue so much of the said footpath as is situated upon the lands authorised to be acquired and may substitute therefor a new footpath along the southern boundary of the said lands:

In the counties of Fife and Kinross—

- (a) Lands partly in the parish of Cleish in the county of Kinross and partly in the parish of Ballingry and partly in the parish of Beath in the county of Fife on the east side of and adjoining the Inverkeithing and Perth section of the Commission's railway and on the north side of and adjoining the Commission's Lochore branch railway and extending for distances respectively $54\frac{1}{2}$ chains north and $49\frac{1}{2}$ chains north-east from the point of junction of the said railways;
- (b) Lands partly in the parish of Cleish in the county of Kinross and partly in the parish of Beath in the county of Fife on the west side of and adjoining the Inverkeithing and Perth section of the Commission's railway and extending from a point $9\frac{1}{2}$ chains north of the bridge carrying the said railway over the river Ore to the junction of the Commission's Blairadam branch railway with the said railway:

In the county of Clackmannan—

- (a) Lands partly in the parish of Alloa and partly in the burgh and parish of Alloa on the south-west side of and adjoining the Stirling and Dunfermline section of the Commission's railway and on the north-west side of and adjoining the Commission's Alloa Junction loop and the Commission's

Commission Order Confirmation Act, 1948.

Alloa branch railway and extending respectively 119 chains north-west and $68\frac{1}{2}$ chains south-west from the point of junction of the first-mentioned railway and the said Alloa Junction loop;

- (b) Lands partly in the parish of Alloa and partly in the burgh and parish of Alloa on the east side of and adjoining the Commission's Alloa branch railway and extending from the point of junction of the said branch railway with the Commission's Alloa Junction loop to the north end of the Alloa bridge carrying the said Alloa branch railway over the river Forth;

And in connection therewith the Commission may—

(i) Stop up and discontinue the portion of the road leading from Cambus to Alloa (in this section referred to as "the old road") extending from a point 8 chains east of the junction of Main Street and Station Road Cambus to a point on the north-west side of the bridge carrying the Commission's Alloa Junction loop over the old road;

(ii) Stop up and discontinue the level crossing whereby the road leading from the old road to the Stirling and Alloa main road is crossed on the level by the Stirling and Dunfermline section of the Commission's railway;

(iii) Construct a new road commencing and terminating respectively at the points between which the old road is authorised to be stopped up and discontinued as aforesaid;

(iv) Stop up and discontinue such portions of the respective roads leading from the old road—

(a) to the Stirling and Alloa main road;

(b) to Tullibody House; and

(c) to Orchard House and the river Forth;

as are situated upon the lands authorised to be acquired and will be rendered unnecessary by the construction of the said new road and by the stopping up and discontinuance of the old road and of the said level crossing;

(v) Stop up and discontinue the footpath leading from Longcarse to Orchard House for a distance of $5\frac{1}{2}$ chains south-east and for a distance of $1\frac{1}{2}$ chains north-west of the point where the said footpath is crossed on the level by the Commission's Alloa branch railway.

8. For the protection of the county council of the county of Clackmannan (in this section referred to as "the council") the following provisions shall unless otherwise agreed in writing between the council and the Commission apply and have effect:—

For protection
of
Clackmannan
County Council.

- (I) In this section "the new road" means the new road partly in the parish of Alloa and partly in the burgh and parish of Alloa which the Commission are authorised to construct by the last preceding section of this Order:

- (2) The bridge shown on the deposited plans and sections by which the new road is intended to be carried over a proposed line of railway on the lands which the Commission are authorised to acquire by this Order shall be constructed of a clear width of 26 feet between the parapets:
- (3) Notwithstanding anything shown on the deposited plans and sections the said line of railway where the same passes under the said bridge shall be constructed so that the level of the rails shall be one foot below the level of rails shown on the deposited sections and the said bridge shall be constructed with a clear headroom above the highest rail level of not more than 14 feet 6 inches.

For protection of Postmaster-General.

9. Notwithstanding the stopping up under the powers of this Order of any public road or footpath or any portion thereof the Postmaster-General may if he so desires (without derogation from any other right vested in him and after giving reasonable notice to the Commission) remove therefrom any telegraphic line which is in under upon along over or across the same and the Commission shall pay to the Postmaster-General the expenses incurred by him of and incidental to the removal of such telegraphic line and of any telegraphic line connected therewith which in consequence of the removal of the first-mentioned line from the road or footpath stopped up will be rendered useless and the substitution of a telegraphic line in such other place as the Postmaster-General may reasonably require.

Extinction of private rights of way.

10. All private rights of way over any lands which under the powers of this Order are acquired compulsorily shall as from the date of such acquisition be extinguished:

Provided that the Commission shall make compensation to all persons interested in respect of any such rights and the compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

Period for compulsory purchase of lands.

11. The powers of the Commission for the compulsory purchase of the lands which they are authorised to acquire by the section of this Order of which the marginal note is "Power to Commission to acquire lands &c." shall cease on the first day of October one thousand nine hundred and fifty-one.

Power to certain owners to grant servitudes.

12. Persons empowered by the Lands Clauses Acts to sell and convey or discharge lands may if they think fit subject to the provisions of those Acts and of this Order grant to the Commission any servitude right or privilege (not being a servitude right or privilege of water in which persons other than the grantors have an interest) required for any of the purposes of this Order in over or affecting any such lands and the provisions of the Lands Clauses Acts with respect to lands and feu duties or ground annuals so far as the same are applicable in that behalf shall extend and apply to such grants and to such servitudes rights and privileges as aforesaid respectively.

Power to acquire servitudes compulsorily in certain cases.

13. Notwithstanding anything in this Order or in any Act wholly or partly incorporated herewith the Commission may purchase and acquire such servitudes or rights of constructing maintaining renewing and using or removing the works in under or over any railway tram-

Commission Order Confirmation Act, 1948.

way tramroad river canal navigation watercourse aqueduct drain dyke or sewer as they may require for the purposes of this Order without the Commission being obliged or compellable to purchase any greater interest in under or over the same respectively and the provisions of the Lands Clauses Acts shall extend and apply to such servitudes and rights as if the same were lands within the meaning of those Acts.

14. The Commission and their surveyors officers contractors and workmen and any person duly authorised in writing in that behalf and showing his authority if required may from time to time at all reasonable hours in the daytime upon giving in writing for the first time twenty-four hours' and afterwards from time to time twelve hours' previous notice enter upon and into the lands and premises authorised to be taken and used by this Order or any of them for the purpose of surveying and valuing the said lands and premises without being subject or liable to any fine penalty or punishment on account of entering or continuing upon any part of the said lands and premises.

Power to enter upon property for survey and valuation.

15. At any time after notice to treat has been served for any land which the Commission are authorised by this Order to purchase compulsorily the Commission may after giving to the owner and occupier of the land not less than fourteen days' notice enter on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with sections 83 to 88 of the Lands Clauses Consolidation (Scotland) Act 1845 but subject to the payment of the like compensation for the land of which possession is taken and interest on the compensation awarded as would have been payable if those provisions had been complied with.

Further powers of entry.

16.—(1) And whereas in the construction of the works or otherwise in the exercise by the Commission of the powers of this Order it may happen that portions only of certain properties shown or partly shown on the deposited plans 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 without material detriment thereto Therefore the following provisions shall have effect:—

Owners may be required to sell parts only of certain properties.

- (i) The owner of and persons interested in any of the properties whereof the whole or part is described in the schedule to this Order and whereof a portion only is required for the purposes of the Commission or each or any of them are in this section included in the term "the owner" and the said properties are referred to in this section as "the scheduled properties";
- (ii) If for twenty-one days after the service of notice to treat in respect of a specified portion of any of the scheduled properties the owner fails to notify in writing to the Commission that he alleges that such portion cannot be severed from the remainder of the property without material detriment thereto he may be required to sell and convey to the Commission such portion only without the Commission being obliged or compellable to purchase the whole the Commission paying for the portion so taken and making compensation for any damage sustained by the owner by severance or otherwise;

- (iii) If within such twenty-one days the owner by notice in writing to the Commission alleges 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 scheduled 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 over which the Commission have compulsory powers of purchase) can be so severed;
- (iv) If the tribunal determine that the portion of the scheduled 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 have determined to be so severable without the Commission being obliged or compellable to purchase the whole the Commission paying such sum for the portion taken by them including compensation for any damage sustained by the owner by severance or otherwise as shall be awarded by the tribunal;
- (v) If the tribunal determine that the portion of the scheduled property specified in the notice to treat can notwithstanding the allegation of the owner be severed from the remainder without material detriment thereto the tribunal may in its absolute discretion determine and order that the costs charges and expenses incurred by the owner incident to the determination of any matters under this section shall be borne and paid by the owner;
- (vi) If the tribunal determine that the portion of the scheduled property specified in the notice to treat cannot be severed from the remainder without material detriment thereto (and whether or not they determine that any other portion can be so severed) the Commission may withdraw their notice to treat and thereupon they shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice;
- (vii) If the tribunal determine that the portion of the scheduled 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 if they do not withdraw the notice to treat shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice or such portion thereof as the tribunal having regard to the circumstances of the case and their final determination shall think fit.

(2) The provisions of this section shall be in force notwithstanding anything contained in the Lands Clauses Consolidation (Scotland) Act 1845 and nothing contained in or done under this section shall be held as determining or as being or implying an admission that

any of the scheduled properties or any part thereof is or is not or but for this section would or would not be subject to the provisions of section 90 of the Lands Clauses Consolidation (Scotland) Act 1845.

(3) The provisions of this section shall be stated in every notice given thereunder to sell and convey any premises.

17.—(1) If there is any omission misstatement or erroneous description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plans or specified in the deposited book of reference the Commission after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to the sheriff of the county in which the said lands are situated for the correction thereof.

Correction of errors in deposited plans and book of reference.

(2) If on any such application it appears to the sheriff that the omission misstatement or erroneous description arose from mistake he shall certify the same accordingly and he shall in his certificate state the particulars of the omission and in what respect any such matter is misstated or erroneously described and the decision of the sheriff in such matter shall be final.

(3) The certificate of the sheriff shall be deposited in the office of the sheriff clerk of the said county and thereupon the deposited plans and book of reference shall be deemed to be corrected in accordance with the certificate and it shall be lawful for the Commission to take the lands and execute the works in accordance with such certificate.

(4) Any certificate deposited under this section shall be kept by such sheriff clerk along with the other documents to which the same relate.

18. In settling any question of disputed purchase money or compensation under this Order the tribunal settling the same shall not award any sum of money for or in respect of any improvement alteration or building made or for or in respect of any interest in lands created after the first day of November one thousand nine hundred and forty-seven if in the opinion of such tribunal the improvement alteration or building or the creation of the interest in respect of which the claim is made was not reasonably necessary and was made or created with a view to obtaining or increasing compensation under this Order.

Compensation in cases of recently altered buildings.

19.—(1) Where this Order authorises the stopping up of a road or footpath or portion thereof without providing a substitute such stopping up shall not take place except where the same is situated upon property of the Commission without the consent of the owners lessees and occupiers of the houses and lands abutting on both sides thereof.

Stopping up roads and footpaths without providing substitute.

(2) After such stopping up all rights of way over or along the road or footpath or portion authorised to be stopped up shall be extinguished and the Commission may subject to the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 with respect to mines lying under or near the railway appropriate and use for

the purposes of their undertaking the site of the road or footpath or portion thereof so stopped up:

Provided that the Commission shall make compensation to all parties interested in respect of any private rights of way extinguished by virtue of this section and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

Stopping up roads and footpaths in case of diversion.

20.—(1) Where this Order authorises the diversion of a road or footpath or the making of a new road or footpath and the stopping up of an existing road or footpath or portion thereof such stopping up shall not take place until such new road or footpath is completed to the satisfaction of the road authority and is open for public use or in case of difference between the Commission and the road authority until the sheriff has certified that the new road or footpath has been completed to his satisfaction and is open for public use.

(2) Before applying to the sheriff for his certificate the Commission shall give to the road authority of the district in which the existing road or footpath is situated seven days' notice in writing of their intention to apply for the same.

(3) As from the completion to the satisfaction of the road authority of the new road or footpath or as from the date of the said certificate (as the case may be) all rights of way over or along the existing roads or footpaths or portions authorised to be stopped up shall be extinguished and the Commission may subject to the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 with respect to mines lying under or near the railway appropriate and use for the purposes of their undertaking the site of the road or footpath or portion thereof stopped up as far as the same is bounded on both sides by lands of the Commission.

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

Provision as to repair of roads and footpaths.

21. Any road or footpath or portion of road or footpath made diverted or altered under the authority of this Order (except the structure carrying any such road or footpath over any railway of the Commission which structure shall unless otherwise agreed be maintained by and at the expense of the Commission) shall when made and completed unless otherwise agreed be maintained by and at the expense of the persons liable to maintain roads or footpaths of the same nature and in the same parish district burgh or city as the road or footpath or portion of road or footpath in question.

Power to make agreements with road authorities.

22. When any portion of a road street footpath or highway will be altered or stopped up or interfered with under the provisions of this Order the Commission may enter into and carry into effect agreements with the parties having the charge management or control of such road street footpath or highway or any of them in reference to the construction or contribution towards the costs of such alteration or of any new road street footpath or highway to be made under the provisions of this Order and in reference to any other matters

relating thereto and if so agreed the Commission may delegate to such parties as aforesaid the power of constructing all or any of such alterations or new roads streets footpaths or highways in which they may be interested including the structure of any bridge over or under any railway and the purposes of this section shall be deemed to be purposes for which a local road authority may incur expenditure and borrow money.

23. In constructing the works the Commission may deviate from the lines shown on the deposited plans to the extent of the limits of deviation marked thereon and may deviate from the levels of the works shown on the deposited sections in accordance with the provisions of the Railways Clauses Consolidation (Scotland) Act 1845.

Power to deviate in construction of works.

24. For the purposes of sections 71 to 78 (inclusive) of the Railways Clauses Consolidation (Scotland) Act 1845 as incorporated with this Order and as amended by Part II of the Mines (Working Facilities and Support) Act 1923 the expression "the railway or works" in the last mentioned Act shall be deemed to include any railway or works which may from time to time hereafter be constructed by the Commission upon any lands acquired by them under the powers of this Order.

As to minerals under and near to lands to be acquired. 13 & 14 Geo. 5. c. 20.

25.—(1) The provisions of section 8 (Powers as to building on or over lands) of the London and North Eastern Railway Order 1925 as amended by section 15 (Amendment of section 8 of London and North Eastern Railway Order 1925) of the London and North Eastern Railway Order 1936 shall extend and apply to any lands acquired or held by the Commission in pursuance of the powers of this Order.

Application of section 8 of Order of 1925 and section 14 of Order of 1936.

(2) The provisions of section 14 (Power to hold or sell or otherwise dispose of lands) of the London and North Eastern Railway Order 1936 shall extend and apply to any lands acquired or held by the Commission in pursuance of the powers of this Order.

26. The provisions of sections 18 to 23 (inclusive) of the Railways Clauses Consolidation (Scotland) Act 1845 shall for the purposes of this Order extend and apply to the gas and water mains pipes and apparatus of any local authority or water board and shall be construed as if "local authority" and "water board" were mentioned in those sections in addition to "company or society":

Protection of gas and water mains of local authorities.

Provided that any penalties recovered under section 23 of that Act shall be appropriated to that fund of the local authority or water board to which their revenues in respect of gas or water (as the case may be) are appropriated.

27.—(1) Nothing in this Order shall extend to or authorise any interference with any electric lines or other works of any electricity board except in accordance with and subject to the provisions of section 15 of the Electric Lighting Act 1882 and section 17 of the schedule to the Electric Lighting (Clauses) Act 1899 and such provisions shall be deemed for the purposes of this subsection to extend to and include any electric line or work of an electricity board placed upon or above the level of the ground.

For protection of Electricity Boards.

45 & 46 Vict. c. 56. 62 & 63 Vict. c. 19.

10 & 11 Geo. 6
c. 54.

Compulsory
purchase of
land.

10 & 11 Geo. 6.
c. 42.

9 & 10 Geo. 6.
c. 49.

Saving for
town and
country
planning.

Costs of Order.

(2) In this section the expressions "electric lines" and "works" have the same respective meanings as in the Electricity (Supply) Acts 1882 to 1936 and the expression "electricity board" has the meaning assigned to it by section 1 of the Electricity Act 1947.

28. In the application of section 8 of the Transport Act 1947 to Scotland a reference to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall be substituted for the reference to the Acquisition of Land (Authorisation Procedure) Act 1946.

29. This Order shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning (Scotland) Act 1947 for the purposes of subsection (4) of section 11 and subsection (1) of section 112 of that Act.

30. All costs charges and expenses of and incident to the preparing for obtaining and confirming of this Order or otherwise in relation thereto shall be paid by the Commission and may in whole or in part be defrayed out of revenue.

The SCHEDULE referred to in the foregoing Order.

DESCRIBING PROPERTIES WHEREOF PORTIONS ONLY MAY BE
TAKEN COMPULSORILY.

Area.	No. on deposited plans.
Additional lands at Thornton.	
Parish of Markinch.	6 7
Additional lands at Dunfermline.	
City and royal burgh of Dunfermline.	2 3 4

PRINTED BY SIR NORMAN GIBB SCORGIE, C.V.O., C.B.E.
Controller of His Majesty's Stationery Office and King's Printer of Acts
of Parliament

To be purchased directly from H.M. STATIONERY OFFICE at the following addresses:
York House, Kingsway, London, W.C.2; 13a Castle Street, Edinburgh, 2;
39-41 King Street, Manchester, 2; 1 St. Andrew's Crescent Cardiff;
Tower Lane, Bristol, 1; 80 Chichester Street, Belfast.
OR THROUGH ANY BOOKSELLER

Price 9d. net

(72465)