CHAPTER xii.

An Act to empower the London Midland and Scottish Railway Company to acquire lands to amend the London Midland and Scottish Railway Superannuation Scheme to authorise the Midland and Great Northern Railways Joint Committee to acquire lands and for other purposes.

[22nd July 1941.]

WHEREAS it is expedient that the London Midland and Scottish Railway Company (in this Act referred to as "the Company") should be empowered to acquire the lands in this Act described:

And whereas the Manchester Bolton and Bury Canal authorised by the Act 31 Geo. III. c. 68 is now vested in the Company:

And whereas it is expedient to authorise the Company to stop up and discontinue portions of the said canal and that the provisions hereinafter contained with respect to the said portions of canal should be enacted:

And whereas it is expedient that the provisions relating to the London Midland and Scottish Railway Superannuation Scheme should be amended:

And whereas it is expedient that the Midland and Great Northern Railways Joint Committee (in this Act referred to as "the committee") should be empowered to acquire the lands in this Act described and that the other powers in this Act mentioned should be conferred upon the committee:

And whereas plans of the lands which may be taken or used under the powers of this Act and a book of reference

PART I. —*cont.*

Incorporation of general Acts.

4. The following Acts so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Act are incorporated with and form part of this Act (that is to say):—

The Lands Clauses Acts (except sections 127 to 131 inclusive of the Lands Clauses Consolidation Act 1845): 8 & 9 Vict. c. 18.

Provided that—

(1) notwithstanding anything contained in the Lands Clauses Consolidation Act 1845 any question of disputed compensation under this Act or any Act incorporated herewith (other than a question required to be determined by two justices) shall be determined by a single arbitrator to be agreed upon between the Company and the person claiming the compensation or in default of such agreement appointed by the Board of Trade on the application of either party;

(2) the bond required by section 85 of the Lands Clauses Consolidation Act 1845 shall be under the common seal of the Company and shall be sufficient without the addition of the sureties mentioned in that section:

The Railways Clauses Consolidation Act 1845. 8 & 9 Vict. c. 20.

PART II.

POWER TO COMPANY TO ACQUIRE LANDS &C.

Power to Company to acquire lands.

5. Subject to the provisions of this Act the Company 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 (that is to say):—

In the county of Buckingham—

Lands in the urban district of Bletchley—

(*a*) On the east side of and adjoining the Birmingham to Euston railway of the Company extending from the road to Home Farm for a distance of one hundred and sixty-seven yards northwards;

(*b*) On the south side of and adjoining the Bletchley to Bedford railway of the Company in the north-west corner of the field or enclosure numbered 80 on the 1/2500 Ordnance map of Buckingham No. XV.10 (edition 1925);

hours' and afterwards from time to time twelve hours' previous notice enter upon and into the lands houses and buildings authorised by this Act to be taken and used or any of them for the purpose of surveying and valuing the said lands houses and buildings without being deemed trespassers and without being subject or liable to any fine penalty or punishment on account of entering or continuing upon any part of the said lands houses and buildings.

Costs of arbitration in certain cases.

11.—(1) The tribunal to whom any question of disputed purchase money or compensation under this Act is referred shall if so required by the Company award and declare whether a statement in writing of the amount of compensation claimed has been delivered to the Company by the claimant giving sufficient particulars and in sufficient time to enable the Company to make a proper offer and if the tribunal shall be of opinion that no such statement giving sufficient particulars and in sufficient time shall have been delivered and that the Company have been prejudiced thereby the tribunal shall have power to decide whether the claimant's costs or any part thereof should be borne by the claimant Provided that it shall be lawful for the High Court to permit any claimant after seven days' notice to the Company to amend the statement in writing of the claim delivered by him to the Company in case of discovery of any error or mistake therein or for any other reasonable cause such error mistake or cause to be established to the satisfaction of the High Court after hearing the Company if they object to the amendment and such amendment shall be subject to such terms enabling the Company to investigate the amended claim and to make an offer de novo and as to postponing the hearing of the claim and as to costs of the inquiry and otherwise as to the High Court may seem just and proper under all the circumstances of the case Provided also that this subsection shall be applicable only in cases where the notice to treat under the Lands Clauses Consolidation Act 1845 either contained or was endorsed with a notice of the effect of this subsection.

(2) If the Company shall make an offer of purchase money and compensation at least ten days before the commencement of the hearing before the tribunal and the claimant fails within ten days from the making of the offer to notify the Company in writing that he accepts the same all the costs and expenses of the Company of and incidental to the arbitration including any fees and expenses of the arbitrator incurred by them after the date of the offer shall in the event of the claimant subsequently accepting such offer be borne by him Provided that this subsection shall be applicable only in cases where the offer contained a notice of the effect of this subsection.

PART II. —*cont.*

(2) The expenses incurred by any urban authority under the powers of the said section which but for this provision the Company would be liable to pay shall be repaid to the urban authority by the owners of the premises fronting adjoining or abutting on the said street other than the Company and in such proportions as shall be settled by the surveyor of the urban authority.

(3) In the event of the Company subsequently making a communication with such street they shall notwithstanding such repayment as last aforesaid pay to the urban authority the expenses which but for the foregoing provision the Company would in the first instance have been liable to pay.

(4) The urban authority shall divide among the owners for the time being other than the Company the amount so paid by the Company to the urban authority less the costs and expenses attendant upon such division in such proportion as shall be settled by the said surveyor whose decision shall be final and conclusive.

(5) This section shall not apply to any street existing at the passing of this Act.

Application of certain sections of London Midland & Scottish Railway Acts 1924 and 1933.

14 & 15 Geo. 5. c. liv.

23 & 24 Geo. 5 c. xxxiii.

15.—(1) The provisions of section 54 (Power as to building on or over lands) of the London Midland and Scottish Railway Act 1924 shall extend and apply to any lands or premises which have from time to time been acquired or held or which under the powers of this Act may hereafter be acquired or held by the Company.

(2) The provisions of section 31 (Power to hold sell or otherwise dispose of lands) of the London Midland and Scottish Railway Act 1933 shall extend and apply to any lands from time to time acquired or held or which under the powers of this Act may hereafter be acquired or held by the Company.

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

PART III.

STOPPING UP AND DISCONTINUANCE OF PORTIONS OF MANCHESTER BOLTON AND BURY CANAL.

Interpretation of Part III.

16. In this Part of this Act—

"The canal" means the canal constructed pursuant to the Acts 31 Geo. III. c. 68 and 1 & 2 Will. IV. c. lx;

PART III. —*cont.*

the said portion of the canal in the same manner as at the date of the passing of this Act; and

(*b*) the Company shall to the reasonable satisfaction of the corporation maintain the banks of the canal in such a condition as to prevent the escape of water from the said portion of the canal Provided that the Company shall not be liable in respect of damage due to enemy action:

(2) If any dispute or difference shall arise between the corporation and the Company under paragraph (*b*) of subsection (1) of this section such dispute or difference shall be referred to and determined by an arbitrator to be agreed upon between them or failing such agreement to be appointed on the application of either party (after notice in writing to the other party) by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to any such reference and determination.

Right to work minerals.

55 & 56 Vict. c. clxxvi.

19.—(1) Notwithstanding anything contained in section 62 of the Lancashire and Yorkshire Railway (Various Powers) Act 1892 and the agreements set out in the Second Third Fourth and Fifth Schedules to that Act the mines and minerals purchased by the Company for the support of the abandoned canal shall be deemed to have been vested in them without any restriction upon the working thereof imposed by the said Act or agreements.

(2) The Company shall be entitled to sell lease or otherwise dispose of such mines or minerals or any part or parts thereof and any surface rights necessary or convenient for the working or getting thereof and in any such sale lease or disposal shall take adequate precautions (by requiring the purchaser lessee or disponee to enter into and by enforcing appropriate covenants or otherwise)—

(*a*) to the reasonable satisfaction of the Lancashire County Council for the protection of the bridge over the abandoned canal known as the Ringley Canal Bridge and the approaches thereto; and

(*b*) to the reasonable satisfaction of the Bolton Corporation for the protection of and the preservation of means of access by that corporation to the sewer belonging to the said corporation under and near to the abandoned canal and the conduits pipes culverts drains manholes and other works and appliances in connection with the said sewer.

Railways Joint Committee to acquire lands.

inafter described or referred to and delineated on the deposited plans and described in the deposited book of reference relating thereto (that is to say):—

In the county of Lincoln—

Parts of Holland—

Lands wholly in the urban district of Spalding on the south side of and adjoining the Spalding to Weston railway of the committee extending from the road from Weston Hills to Spalding known as Kellet Gate for a distance of two hundred and twenty-three yards eastwards and in connection therewith the committee may stop up the footpath leading from Kellet Gate to the southern boundary of the said railway and in lieu thereof construct a new footpath along the southern boundary of the said railway from the point where the existing footpath is to be stopped up to Kellet Gate.

As to level crossing at Spalding.

25. From and after the passing of this Act all rights of way now existing over or upon the level crossing hereinafter mentioned shall be and the same are hereby extinguished and the committee shall make full compensation to all parties interested in respect of any private rights of way extinguished by virtue of this section and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement as modified by this Act.

The level crossing hereinbefore referred to is the following:—

In the county of Lincoln—

Parts of Holland—

In the urban district of Spalding the crossing on the Spalding to Weston railway of the committee at a point two hundred and twenty yards east of the road from Weston Hills to Spalding known as Kellet Gate.

Provision as to repair of footpaths.

26. Any footpath or portion thereof made diverted or altered under the authority of this Act shall when made and completed unless otherwise agreed be maintained by and at the expense of the body or persons liable to maintain footpaths of the same nature and in the same parish or district as the footpath or portion of footpath in question.

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

27. And whereas in the exercise by the committee of the powers of this Act 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 committee and that such portions or some other portions less than the whole can be severed from the remainder of the said properties without

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:

(6) 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 shall determine that any other portion can be so severed) the committee 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:

(7) 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 committee in case they shall not withdraw the notice to treat shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice or such portion thereof as the tribunal shall having regard to the circumstances of the case and their final determination think fit.

The provisions of this section shall be in force notwithstanding anything in the Lands Clauses Consolidation Act 1845 contained 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 92 of the Lands Clauses Consolidation Act 1845.

The provisions of this section shall be stated in every notice given thereunder to sell and convey any of the scheduled properties.

Application to this Part of Act of certain provisions of Parts I and II of this Act.

28. The provisions of the sections of this Act of which the marginal notes are respectively as follows shall extend and apply to the committee and to the lands by this Part of this Act authorised to be acquired by them as if the said sections were enacted in this Part of this Act with the substitution of

The SCHEDULES referred to in the foregoing Act.

The FIRST SCHEDULE.

Rule 11. In place of the words "$4\frac{1}{2}$ per cent. compound interest" substitute the words "compound interest at the rate credited by the "Company to the fund on the fund account in the year previous to "the year of admission of such member."

Rule 12. In place of the words "at $4\frac{1}{2}$ per cent." substitute the words "at the rate credited by the Company to the fund on the fund "account in the year previous to the year of such salaried officer's "appointment."

Delete rules 18 and 19 and insert the following new rule 18:—

Rate of contributions.

"18.—(1) Every contributing member shall contribute to the fund a sum equal to the percentage of his salary calculated according to his age at the date of his joining the fund as is provided in the next following table (hereinafter called "the table") (that is to say):—

For persons who became contributing members of the fund before the 1st January 1935 the percentage set out in column I of the table;

For persons who became contributing members of the fund on or after the 1st January 1935 and before the 1st August 1941 the percentage set out in column II of the table;

For persons who become contributing members of the fund on or after the 1st August 1941 the percentage set out in column III of the table—

Age next birthday on admission.	Percentage of salary.		
	I Pre-1935 members.	II Members joining on or after 1st January 1935 and before 1st August 1941.	III Future members.
25 or under	4	4	5
26—30	$4\frac{1}{4}$	$4\frac{1}{2}$	$5\frac{1}{2}$
31—35	$4\frac{1}{2}$	5	6
36—40	$4\frac{3}{4}$	6	$6\frac{1}{2}$
41—45	5	7	7
46—50	$5\frac{1}{4}$	8	8

(2) Notwithstanding anything in the table contained the rate of contribution payable by a person who became a contributing member before the 1st January 1935 shall in no case exceed the rate of contribution paid by him before the 1st August 1941 by more than $1\frac{1}{2}$ per centum of his salary.

interval as the committee with the like assent shall determine and shall report thereon to the committee who shall furnish a copy of the report to the directors."

Insert the following new rule 75:—

Alteration of scheme.

"75.—(1) This scheme may be altered by a resolution of an extraordinary meeting duly convened for that purpose provided that the alteration be confirmed in the following manner (that is to say):—

1st. By a resolution of a second extraordinary meeting duly convened for that purpose and held not less than two weeks nor more than three months after the date of the first extraordinary meeting; and

2nd. By a resolution of the committee; and

3rd. By a resolution of the directors:

Provided that no alteration shall be made which would be inconsistent with the scheme having for its main purpose the provision of superannuation allowances for salaried officers on retirement from the service of the Company.

(2) A copy of any resolution under paragraph (1) of this rule shall be sent to the Commissioners of Inland Revenue within fourteen days of its confirmation."

The SECOND SCHEDULE.

PROPERTIES OF WHICH PORTIONS ONLY MAY BE TAKEN COMPULSORILY.

Area.	No. on deposited plans.	Description of property in book of reference.
ADDITIONAL LANDS AND DIVERSION OF FOOTPATH AT SPALDING.		
County of Lincoln Parts of Holland Urban District of Spalding.	1	Orchard chicken houses and ditch.
	2	Field and piggery.

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