

Ramblers' Association

Proposed Network Rail (Suffolk Level Crossing Reduction) Order

Note on the proposed approach suggested by Network Rail to the C22 Weatherby Crossing

The extent to which the Ramblers' Association ("the Ramblers") agrees with Network Rail's approach

1. The Ramblers accept that it is Network Rail's view that no public rights exist over C22 Weatherby Crossing and that Network Rail expressed this view in its statement of case. However, Network Rail is not the highway or surveying authority and has no greater role in the determination of the existence or otherwise of public rights than any other landowner. In this regard its status as a statutory undertaker confers no special status.
2. The Ramblers' view remains that Network Rail has been disingenuous with regard to the status of the Weatherby Crossing. It is now apparent that it has in its own possession documents¹ that on their face indicate that the crossing was considered, at the time of the passing of the enabling Act for the construction of the original railway line, to be a public road. A better course of action might have been for Network Rail, rather than to continue to *believe* that no public rights existed, to put this evidence before the County Council and allow the Council time to conduct an investigation prior to the application for the Order being made. The County Council employs specialist staff who are used to evaluating documentary evidence in the context of the processes set out in the Wildlife and Countryside Act 1981, which all parties are now agreed is the preferred method for determining public rights.

¹ In particular documents NR-INQ-58 b-e

3. The Ramblers remain of the view that it would be preferable for S22 Weatherby Crossing to be removed from this Order so that proper consideration can be given to the status of any public rights of way over the crossing. Having said this the Ramblers acknowledge that Network Rail has put forward a pragmatic approach that acknowledges that any alternative route provided for the closed crossing must be found to be suitable and convenient and we are grateful for this clarification.

Risks of adopting the approach suggested by Network Rail

4. The Ramblers consider that the evidence put forward by Network Rail in support of its view that the Weatherby Crossing is simply a permissive crossing in fact shows that public carriageway rights and prima facie the current status of the crossing is that of restricted byway. (We have set out our reasons for this below in a preliminary assessment of the evidence.
5. A restricted byway is a right of way for the public on foot, on horseback, on bicycles and in non-mechanically propelled vehicles. That being so it is the Ramblers' view that an alternative route should be suitable and convenient for all classes of user that could legally use the crossing. Even on Network Rail's more limited view, with which the Ramblers do not agree, an alternative route would have to be suitable and convenient for cyclists and pedestrians. It remains a criminal offence to cycle on a footway²; the proposed alternative route is wholly on footways, save where it is necessary to cross the carriageroad.
6. In the Ramblers' view there is a risk of continuing on the basis that the *only* users that have to be accommodated by a suitable and convenient alternative route are pedestrians

² Section 72 of the Highways Act 1835

displaced from the crossing. At the very least cyclists would be prejudiced if the true extent of public rights over Weatherby crossing are found to be restricted byway rights.

Preliminary evaluation of Network Rail's evidence

7. The book of reference and associated plan produced by Network Rail was prepared in association with the special Act authorising the railway, i.e. the Newmarket and Chesterford Railway Act 1846. The book of reference and plan were deposited with the clerks of the peace for the places to be crossed by the proposed railway and a notice to this effect was put into the London Gazette indicating that the railway company intended to pursue a Bill through Parliament. This was in accordance with the standing orders for the House of Lords and was the standard process for all special railway Acts at the time.
8. Where, as here, a special Act incorporated the Railway Clauses Consolidation Act 1845 ("the 1845 Act") the building of the railway could only be carried out in accordance with the published book of reference and plan *unless* corrections were made under Section 7 of the 1845 Act and altered plans were approved by Parliament under Section 8 of the 1845 Act (and then deposited with the clerk of the peace in accordance with Section 9 of the 1845 Act). If the book of reference and the plan were (as is now being claimed) in *error* in describing plots 29 and 26 as public roads then corrections should have been made under this process *before* the railway was constructed.
9. Section 46 of the 1945 Act provided that:

"If the line of the railway cross any turnpike road or public highway, then, (except where otherwise provided by the special Act) either such road shall be carried over the railway, or the railway shall be carried over such road, by means of a bridge of the height and width and with the ascent or descent by this or the special Act in that behalf provided; and such bridge, with the immediate approaches, and all other necessary works connected therewith, shall be executed and at all times thereafter maintained at the expense of the

company: provided always, that, with the consent of two or more justices in petty sessions, as after mentioned, it shall be lawful for the company to carry the railway across any highway, other than a public carriage road, on the level.” [Emphasis Added]

10. This is the section of the 1845 Act that is referenced in Section 26 of the 1846 where it says:

“And be it enacted, That, subject to the Provisions contained in the said Railway Clauses Consolidation Act, with reference to the crossing of Roads on the Level, it shall be lawful for the Company, in the construction of the Railway, Branch Railway, and Works by this Act authorized to be made to carry the same across and on the Level of the several Roads numbered on the said Plans as here-inafter mentioned (that is to say,)....

In the parish of Wood Ditton, the Roads numbered 11 and 29.....”

11. In the Ramblers’ view absent other evidence the 1846 Act of Parliament and the book of reference prepared in support of that Act are weighty evidence that a public road subsisted over plot 29, which is the plot Network Rail identifies as being the location of S22 Weatherby Crossing; private conveyance evidence on its own does not in our view displace the evidential effect of the statutory documents. By operation of the Natural Environment and Rural Communities Act 2006 public rights in mechanically propelled vehicles will have been legally stopped up, leaving a restricted byway with the rights set out above.

14 March 2018

Appendices

1. Section 72 of the Highways Act 1835
2. Section 67 of the Natural Environment and Rural Communities Act 2006
3. Extract from the Railway Clauses Consolidation Act 1845

Appendix 1

Section 72 of the Highway Act 1835

Penalty on persons committing nuisances by riding on footpaths, &c.

If any person shall wilfully ride upon any footpath or causeway by the side of any road made or set apart for the use or accommodation of foot passengers; or shall wilfully lead or drive any horse, ass, sheep, mule, swine, or cattle or carriage of any description, or any truck or sledge, upon any such footpath or causeway; or shall tether any horse, ass, mule, swine, or cattle, on any highway, so as to suffer or permit the tethered animal to be thereon; every person so offending in any of the cases aforesaid shall for each and every such offence forfeit and pay any sum not exceeding level 2 on the standard scale, over and above the damages occasioned thereby.

Appendix 2

Section 67 of the Natural Environment and Rural communities Act 2006

Ending of certain existing unrecorded public rights of way

(1) An existing public right of way for mechanically propelled vehicles is extinguished if it is over a way which, immediately before commencement—

(a) was not shown in a definitive map and statement, or

(b) was shown in a definitive map and statement only as a footpath, bridleway or restricted byway.

But this is subject to subsections (2) to (8).

(2) Subsection (1) does not apply to an existing public right of way if—

(a) it is over a way whose main lawful use by the public during the period of 5 years ending with commencement was use for mechanically propelled vehicles,

(b) immediately before commencement it was not shown in a definitive map and statement but was shown in a list required to be kept under section 36(6) of the Highways Act 1980 (c. 66) (list of highways maintainable at public expense),

(c) it was created (by an enactment or instrument or otherwise) on terms that expressly provide for it to be a right of way for mechanically propelled vehicles,

(d) it was created by the construction, in exercise of powers conferred by virtue of any enactment, of a road intended to be used by such vehicles, or

(e) it was created by virtue of use by such vehicles during a period ending before 1st December 1930.

(3) Subsection (1) does not apply to an existing public right of way over a way if—

(a) before the relevant date, an application was made under section 53(5) of the Wildlife and Countryside Act 1981 (c. 69) for an order making modifications to the definitive map and statement so as to show the way as a byway open to all traffic,

(b) before commencement, the surveying authority has made a determination under paragraph 3 of Schedule 14 to the 1981 Act in respect of such an application, or

(c) before commencement, a person with an interest in land has made such an application and, immediately before commencement, use of the way for mechanically propelled vehicles—

(i) was reasonably necessary to enable that person to obtain access to the land, or

(ii) would have been reasonably necessary to enable that person to obtain access to a part of that land if he had had an interest in that part only.

(4) “The relevant date” means—

(a) in relation to England, 20th January 2005;

(b) in relation to Wales, 19th May 2005.

(5) Where, immediately before commencement, the exercise of an existing public right of way to which subsection (1) applies—

(a) was reasonably necessary to enable a person with an interest in land to obtain access to the land, or

(b) would have been reasonably necessary to enable that person to obtain access to a part of that land if he had had an interest in that part only, the right becomes a private right of way for mechanically propelled vehicles for the benefit of the land or (as the case may be) the part of the land.

(6) For the purposes of subsection (3), an application under section 53(5) of the 1981 Act is made when it is made in accordance with paragraph 1 of Schedule 14 to that Act.

(7) For the purposes of subsections (3)(c)(i) and (5)(a), it is irrelevant whether the person was, immediately before commencement, in fact—

(a) exercising the existing public right of way, or

(b) able to exercise it.

(8) Nothing in this section applies in relation to an area in London to which Part 3 of the Wildlife and Countryside Act 1981 (c. 69) does not apply.

(9) Any provision made by virtue of section 48(9) of the Countryside and Rights of Way Act 2000 (c. 37) has effect subject to this section.



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VICTORIÆ REGINÆ.

C A P. XX.

An Act for consolidating in One Act certain Provisions usually inserted in Acts authorizing the making of Railways. [8th May 1845.]

WHEREAS it is expedient to comprise in One General Act sundry Provisions usually introduced into Acts of Parliament authorizing the Construction of Railways, and that as well for the Purpose of avoiding the Necessity of repeating such Provisions in each of the several Acts relating to such Undertakings as for ensuring greater Uniformity in the Provisions themselves : And whereas a Bill is now pending in Parliament, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts authorizing the taking of Lands for Undertakings of a public Nature*, and which is intended to be called "The Lands Clauses Consolidation Act, 1845 : " 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, That this Act shall apply to every Railway which shall by any Act which shall hereafter be passed be authorized to be constructed, and this Act shall be incorporated with such Act ; and all the Clauses and Provisions of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the Undertaking authorized thereby, so far as the same shall

Operation
of this Act
confined to
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be applicable to such Undertaking, and shall, as well as the Clauses and Provisions of every other Act which shall be incorporated with such Act, form Part of such Act, and be construed together therewith as forming One Act.

Interpretations in this Act : And with respect to the Construction of this Act and of other Acts to be incorporated therewith, be it enacted as follows :

“ Special Act : ” II. The Expression “ the Special Act,” used in this Act, shall be construed to mean any Act which shall be hereafter passed authorizing the Construction of a Railway, and with which this Act shall be so incorporated as aforesaid ; and the Word “ prescribed,” used in this Act in reference to any Matter herein stated, shall be construed to refer to such Matter as the same shall be prescribed or provided for in the Special Act ; and the Sentence in which such Word shall occur shall be construed as if, instead of the Word “ prescribed,” the Expression “ prescribed for that Purpose in the Special Act ” had been used ; and the Expression “ the Lands,” shall mean the Lands which shall by the Special Act be authorized to be taken or used for the Purposes thereof ; and the Expression “ the Undertaking ” shall mean the Railway and Works, of whatever Description, by the Special Act authorized to be executed.

“ the Lands : ”
“ the Undertaking.”

Interpretations in this and the Special Act : III. The following Words and Expressions, both in this and the Special Act, shall have the Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction ; (that is to say,)

Number : Words importing the Singular Number only shall include the Plural Number ; and Words importing the Plural Number only shall include also the Singular Number :

Gender : Words importing the Masculine Gender only shall include Females :

“ Lands : ” The Word “ Lands ” shall include Messuages, Lands, Tenements, and Hereditaments of any Tenure :

“ Lease : ” The Word “ Lease ” shall include an Agreement for a Lease :

“ Toll : ” The Word “ Toll ” shall include any Rate or Charge or other Payment payable under the Special Act for any Passenger, Animal, Carriage, Goods, Merchandise, Articles, Matters, or Things conveyed on the Railway :

“ Goods : ” The Word “ Goods ” shall include Things of every Kind conveyed upon the Railway :

“ Month : ” The Word “ Month ” shall mean Calendar Month :

“ Superior Courts : ” The Expression “ Superior Courts ” shall mean Her Majesty’s Superior Courts of Record at *Westminster* or *Dublin*, as the Case may require :

“ Oath : ” The Word “ Oath ” shall include Affirmation in the Case of Quakers, or other Declaration lawfully substituted for an Oath in the Case of any other Persons exempted by Law from the Necessity of taking an Oath :

“ County : ” The Word “ County ” shall include any Riding or other like Division of a County, and shall also include County of a City or County of a Town :

The

- The Word "Sheriff" shall include Under Sheriff or other legally competent Deputy; and where any Matter in relation to any Lands is required to be done by any Sheriff or Clerk of the Peace, the Expression "the Sheriff," or the Expression "the Clerk of the Peace," shall in such Case be construed to mean the Sheriff or the Clerk of the Peace of the County, City, Borough, Liberty, Cinque Port, or Place where such Lands shall be situate; and if the Lands in question, being the Property of one and the same Party, be situate not wholly in One County, City, Borough, Liberty, Cinque Port, or Place, the same Expression shall be construed to mean the Sheriff or Clerk of the Peace of any County, City, Borough, Liberty, Cinque Port, or Place where any Part of such Lands shall be situate :
- The Word "Justice" shall mean Justice of the Peace acting for the County, City, Borough, Liberty, Cinque Port, or Place where the Matter requiring the Cognizance of any such Justice shall arise, and who shall not be interested in the Matter; and where such Matter shall arise in respect of Lands, being the Property of one and the same Party, situate not wholly in any One County, City, Borough, Liberty, Cinque Port, or Place, shall mean a Justice acting for the County, City, Borough, Liberty, Cinque Port, or Place where any Part of such Lands shall be situate, and who shall not be interested in such Matter ; and where any Matter shall be authorized or required to be done by Two Justices, the Expression "Two Justices" shall be understood to mean Two Justices assembled and acting together :
- Where under the Provisions of this or the Special Act any Notice shall be required to be given to the Owner of any Lands, or where any Act shall be authorized or required to be done with the Consent of any such Owner, the Word "Owner" shall be understood to mean any Person or Corporation who, under the Provisions of this or the Special Act, or any Act incorporated therewith, would be enabled to sell and convey Lands to the Company :
- The Expression "the Company" shall mean the Company or Party which shall be authorized by the Special Act to construct the Railway :
- The Expression "the Railway" shall mean the Railway and Works by the Special Act authorized to be constructed :
- The Expression "the Board of Trade" shall mean the Lords of the Committee of Her Majesty's Privy Council appointed for Trade and Foreign Plantations :
- The Expression "the Bank" shall mean the Bank of *England* where the same shall relate to Monies to be paid or deposited in respect of Lands situate in *England* ; and shall mean the Bank of *Ireland*, where the same shall relate to Monies to be paid or deposited in respect of Lands situate in *Ireland* :
- The Expression "Turnpike Road" shall, when applied to any Road in *Ireland*, include any Road upon which Her Majesty's Mails are or shall be carried in Mail Carriages, or such other Roads as the Commissioners of Public Works in *Ireland* shall consider to require Arches of greater Width or Height than by this Act is required for public Carriage Roads :

" the Sheriff : "

" the Clerk of the Peace : "

" Justice : "

" Two Justices : "

" Owner : "

" the Company : "

" the Railway : "

" Board of Trade : "

" the Bank : "

" Turnpike Road," Ireland.

The

“ Surveyor,”
Ireland :

The Expression “ Surveyor,” applied to a Road or Highway, shall, as to Railways in *Ireland*, include the County Surveyor :

“ Overseers
of the Poor,”
Ireland.

The Expression “ Overseers of the Poor ” when applied to *Ireland* shall include the Poor Law Guardians of the Electoral Division and the Clerk of the Guardians of the Union through which such Railway may pass.

Short Title
of the Act.

IV. And be it enacted, That in citing this Act in other Acts of Parliament, and in legal Instruments, it shall be sufficient to use the Expression “ The Railways Clauses Consolidation Act, 1845.”

Form in
which Por-
tions of this
Act may be
incorporated
in other Acts.

V. And whereas it may be convenient, in some Cases, to incorporate with Acts hereafter to be passed some Portion only of the Provisions of this Act : Be it therefore enacted, That, for the Purpose of making any such Incorporation, it shall be sufficient in any such Act to enact that the Clauses of this Act with respect to the Matter so proposed to be incorporated (describing such Matter as it is described in this Act in the Words introductory to the Enactment with respect to such Matter) shall be incorporated with such Act, and thereupon all the Clauses and Provisions of this Act with respect to the Matter so incorporated shall, save so far as they shall be expressly varied or excepted by such Act, form Part of such Act, and such Act shall be construed as if the Substance of such Clauses and Provisions were set forth therein with reference to the Matter to which such Act shall relate.

Construction
of Railway.

And with respect to the Construction of the Railway and the Works connected therewith, be it enacted as follows :

The Con-
struction of
the Railway
to be subject
to the Pro-
visions of
this Act and
the Lands
Clauses Con-
solidation
Act.

VI. In exercising the Power given to the Company by the Special Act to construct the Railway, and to take Lands for that Purpose, the Company shall be subject to the Provisions and Restrictions contained in this Act and in the said Lands Clauses Consolidation Act ; and the Company shall make to the Owners and Occupiers of and all other Parties interested in any Lands taken or used for the Purposes of the Railway, or injuriously affected by the Construction thereof, full Compensation for the Value of the Lands so taken or used, and for all Damage sustained by such Owners, Occupiers, and other Parties by reason of the Exercise, as regards such Lands, of the Powers by this or the Special Act, or any Act incorporated therewith, vested in the Company ; and, except where otherwise provided by this or the Special Act, the Amount of such Compensation shall be ascertained and determined in the Manner provided by the said Lands Clauses Consolidation Act for determining Questions of Compensation with regard to Lands purchased or taken under the Provisions thereof ; and all the Provisions of the said last-mentioned Act shall be applicable to determining the Amount of any such Compensation, and to enforcing the Payment or other Satisfaction thereof.

Errors and
Omissions in
Plans to be
corrected.

VII. If any Omission, Mis-statement, or erroneous Description shall have been made of any Lands, or of the Owners, Lessees, or Occupiers of any Lands, described on the Plans or Books of Reference mentioned in the Special Act, or in the Schedule to the

the Special Act, it shall be lawful for the Company, after giving Ten Days Notice to the Owners of the Lands affected by such proposed Correction, to apply to Two Justices for the Correction thereof; and if it shall appear to such Justices that such Omission, Mis-statement, or erroneous Description arose from Mistake, they shall certify the same accordingly, and they shall in such Certificate state the Particulars of any such Omission, and in what respect any such Matter shall have been mis-stated or erroneously described; and such Certificate shall be deposited with the Clerks of the Peace of the several Counties in which the Lands affected thereby shall be situate, and shall also be deposited with the Parish Clerks of the several Parishes in *England*, and with the Postmasters of the Post Towns in or nearest to such Parishes in *Ireland*, in which the Lands affected thereby shall be situate; and such Certificate shall be kept by such Clerks of the Peace, Parish Clerks, and Postmasters respectively along with the other Documents to which they relate; and thereupon such Plan, Book of Reference, or Schedule shall be deemed to be corrected according to such Certificate; and it shall be lawful for the Company to make the Works in accordance with such Certificate.

*Construction
of Railway.*

VIII. It shall not be lawful for the Company to proceed in the Execution of the Railway unless they shall have previously to the Commencement of such Work deposited with the Clerks of the Peace of the several Counties in or through which the Railway is intended to pass a Plan and Section of all such Alterations from the original Plan and Section as shall have been approved of by Parliament, on the same Scale and containing the same Particulars as the original Plan and Section of the Railway, and shall also have deposited with the Clerks of the several Parishes in *England*, and the Postmasters of the Post Towns in or nearest to such Parishes in *Ireland*, in or through which such Alterations shall have been authorized to be made, Copies or Extracts of or from such Plans and Sections as shall relate to such Parishes respectively.

Works not to be proceeded with until Plans of all Alterations authorized by Parliament have been deposited.

IX. The said Clerks of the Peace, Parish Clerks, and Postmasters shall receive the said Plans and Sections of Alterations, and Copies and Extracts thereof respectively, and shall retain the same, as well as the said original Plans and Sections, and shall permit all Persons interested to inspect any of the Documents aforesaid, and to make Copies and Extracts of and from the same, in the like Manner, and upon the like Terms, and under the like Penalty for Default, as is provided in the Case of the original Plans and Sections by an Act passed in the First Year of the Reign of Her present Majesty, intituled *An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament.*

Clerks of the Peace, &c. to receive Plans of Alterations, and allow Inspection.

7 W. 4. &
1 Vict. c. 83.

X. True Copies of the said Plans and Books of Reference, or of any Alteration or Correction thereof, or Extract therefrom, certified by any such Clerk of the Peace, which Certificate such Clerk of the Peace shall give to all Parties interested when required, shall be

Copies of Plans, &c. to be Evidence.

LXVII. And be it enacted, That all Regulations, Certificates, Notices, and other Documents in Writing purporting to be made or issued by or by the Authority of the Board of Trade, and signed by some Officer appointed for that Purpose by the Board of Trade, shall for the Purposes of this and the Special Act, and any Act incorporated therewith, be deemed to have been so made and issued, and that without Proof of the Authority of the Person signing the same, or of the Signature thereto, which Matters shall be presumed until the contrary be proved; and Service of any such Document, by leaving the same at One of the principal Offices of the Railway Company, or by sending the same by Post addressed to the Secretary at such Office, shall be deemed good Service upon the Company; and all Notices and other Documents required by this or the Special Act to be given to or laid before the Board of Trade shall be delivered at, or sent by Post addressed to, the Office of the Board of Trade in *London*.

Authentica-
tion of Cer-
tificates of
the Board
of Trade,
Service of
Notices, &c.

And with respect to Works for the Accommodation of Lands adjoining the Railway, be it enacted as follows :

*Works for
Protection
and Accom-
modation
of Lands.*

LXVIII. The Company shall make and at all Times thereafter maintain the following Works for the Accommodation of the Owners and Occupiers of Lands adjoining the Railway; (that is to say,)

Such and so many convenient Gates, Bridges, Arches, Culverts, and Passages over, under, or by the Sides of or leading to or from the Railway as shall be necessary for the Purpose of making good any Interruptions caused by the Railway to the Use of the Lands through which the Railway shall be made; and such Works shall be made forthwith after the Part of the Railway passing over such Lands shall have been laid out or formed, or during the Formation thereof :

Gates,
Bridges, &c. :

Also sufficient Posts, Rails, Hedges, Ditches, Mounds, or other Fences for separating the Land taken for the Use of the Railway from the adjoining Lands not taken, and protecting such Lands from Trespass, or the Cattle of the Owners or Occupiers thereof from straying thereout, by reason of the Railway, together with all necessary Gates made to open towards such adjoining Lands, and not towards the Railway, and all necessary Stiles; and such Posts, Rails, and other Fences shall be made forthwith after the taking of any such Lands, if the Owners thereof shall so require, and the said other Works as soon as conveniently may be :

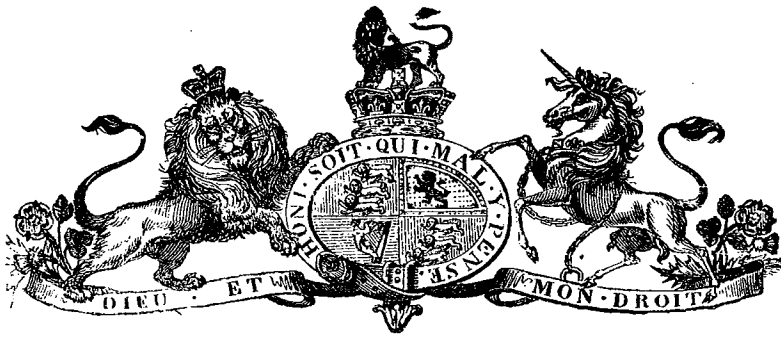
Fences :

Also all necessary Arches, Tunnels, Culverts, Drains, or other Passages, either over or under or by the Sides of the Railway, of such Dimensions as will be sufficient at all Times to convey the Water as clearly from the Lands lying near or affected by the Railway as before the making of the Railway, or as nearly so as may be; and such Works shall be made from Time to Time as the Railway Works proceed :

Drains :

Also proper Watering Places for Cattle where by reason of the Railway the Cattle of any Person occupying any Lands lying near thereto shall be deprived of Access to their former Watering Places; and such Watering Places shall be so made as to be

Watering
Places.



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“ the Undertaking.”

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“ Lease : ” The Word “ Lease ” shall include an Agreement for a Lease :

“ Toll : ” The Word “ Toll ” shall include any Rate or Charge or other Payment payable under the Special Act for any Passenger, Animal, Carriage, Goods, Merchandise, Articles, Matters, or Things conveyed on the Railway :

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“ County : ” The Word “ County ” shall include any Riding or other like Division of a County, and shall also include County of a City or County of a Town :

The

- The Word "Sheriff" shall include Under Sheriff or other legally competent Deputy; and where any Matter in relation to any Lands is required to be done by any Sheriff or Clerk of the Peace, the Expression "the Sheriff," or the Expression "the Clerk of the Peace," shall in such Case be construed to mean the Sheriff or the Clerk of the Peace of the County, City, Borough, Liberty, Cinque Port, or Place where such Lands shall be situate; and if the Lands in question, being the Property of one and the same Party, be situate not wholly in One County, City, Borough, Liberty, Cinque Port, or Place, the same Expression shall be construed to mean the Sheriff or Clerk of the Peace of any County, City, Borough, Liberty, Cinque Port, or Place where any Part of such Lands shall be situate :
- The Word "Justice" shall mean Justice of the Peace acting for the County, City, Borough, Liberty, Cinque Port, or Place where the Matter requiring the Cognizance of any such Justice shall arise, and who shall not be interested in the Matter; and where such Matter shall arise in respect of Lands, being the Property of one and the same Party, situate not wholly in any One County, City, Borough, Liberty, Cinque Port, or Place, shall mean a Justice acting for the County, City, Borough, Liberty, Cinque Port, or Place where any Part of such Lands shall be situate, and who shall not be interested in such Matter ; and where any Matter shall be authorized or required to be done by Two Justices, the Expression "Two Justices" shall be understood to mean Two Justices assembled and acting together :
- Where under the Provisions of this or the Special Act any Notice shall be required to be given to the Owner of any Lands, or where any Act shall be authorized or required to be done with the Consent of any such Owner, the Word "Owner" shall be understood to mean any Person or Corporation who, under the Provisions of this or the Special Act, or any Act incorporated therewith, would be enabled to sell and convey Lands to the Company :
- The Expression "the Company" shall mean the Company or Party which shall be authorized by the Special Act to construct the Railway :
- The Expression "the Railway" shall mean the Railway and Works by the Special Act authorized to be constructed :
- The Expression "the Board of Trade" shall mean the Lords of the Committee of Her Majesty's Privy Council appointed for Trade and Foreign Plantations :
- The Expression "the Bank" shall mean the Bank of *England* where the same shall relate to Monies to be paid or deposited in respect of Lands situate in *England* ; and shall mean the Bank of *Ireland*, where the same shall relate to Monies to be paid or deposited in respect of Lands situate in *Ireland* :
- The Expression "Turnpike Road" shall, when applied to any Road in *Ireland*, include any Road upon which Her Majesty's Mails are or shall be carried in Mail Carriages, or such other Roads as the Commissioners of Public Works in *Ireland* shall consider to require Arches of greater Width or Height than by this Act is required for public Carriage Roads :

" the Sheriff : "

" the Clerk of the Peace : "

" Justice : "

" Two Justices : "

" Owner : "

" the Company : "

" the Railway : "

" Board of Trade : "

" the Bank : "

" Turnpike Road, " Ireland.

The

“ Surveyor,”
Ireland :

The Expression “ Surveyor,” applied to a Road or Highway, shall, as to Railways in *Ireland*, include the County Surveyor :

“ Overseers
of the Poor,”
Ireland.

The Expression “ Overseers of the Poor ” when applied to *Ireland* shall include the Poor Law Guardians of the Electoral Division and the Clerk of the Guardians of the Union through which such Railway may pass.

Short Title
of the Act.

IV. And be it enacted, That in citing this Act in other Acts of Parliament, and in legal Instruments, it shall be sufficient to use the Expression “ The Railways Clauses Consolidation Act, 1845.”

Form in
which Por-
tions of this
Act may be
incorporated
in other Acts.

V. And whereas it may be convenient, in some Cases, to incorporate with Acts hereafter to be passed some Portion only of the Provisions of this Act : Be it therefore enacted, That, for the Purpose of making any such Incorporation, it shall be sufficient in any such Act to enact that the Clauses of this Act with respect to the Matter so proposed to be incorporated (describing such Matter as it is described in this Act in the Words introductory to the Enactment with respect to such Matter) shall be incorporated with such Act, and thereupon all the Clauses and Provisions of this Act with respect to the Matter so incorporated shall, save so far as they shall be expressly varied or excepted by such Act, form Part of such Act, and such Act shall be construed as if the Substance of such Clauses and Provisions were set forth therein with reference to the Matter to which such Act shall relate.

*Construction
of Railway.*

And with respect to the Construction of the Railway and the Works connected therewith, be it enacted as follows :

The Con-
struction of
the Railway
to be subject
to the Pro-
visions of
this Act and
the Lands
Clauses Con-
solidation
Act.

VI. In exercising the Power given to the Company by the Special Act to construct the Railway, and to take Lands for that Purpose, the Company shall be subject to the Provisions and Restrictions contained in this Act and in the said Lands Clauses Consolidation Act ; and the Company shall make to the Owners and Occupiers of and all other Parties interested in any Lands taken or used for the Purposes of the Railway, or injuriously affected by the Construction thereof, full Compensation for the Value of the Lands so taken or used, and for all Damage sustained by such Owners, Occupiers, and other Parties by reason of the Exercise, as regards such Lands, of the Powers by this or the Special Act, or any Act incorporated therewith, vested in the Company ; and, except where otherwise provided by this or the Special Act, the Amount of such Compensation shall be ascertained and determined in the Manner provided by the said Lands Clauses Consolidation Act for determining Questions of Compensation with regard to Lands purchased or taken under the Provisions thereof ; and all the Provisions of the said last-mentioned Act shall be applicable to determining the Amount of any such Compensation, and to enforcing the Payment or other Satisfaction thereof.

Errors and
Omissions in
Plans to be
corrected.

VII. If any Omission, Mis-statement, or erroneous Description shall have been made of any Lands, or of the Owners, Lessees, or Occupiers of any Lands, described on the Plans or Books of Reference mentioned in the Special Act, or in the Schedule to the

the Special Act, it shall be lawful for the Company, after giving Ten Days Notice to the Owners of the Lands affected by such proposed Correction, to apply to Two Justices for the Correction thereof; and if it shall appear to such Justices that such Omission, Mis-statement, or erroneous Description arose from Mistake, they shall certify the same accordingly, and they shall in such Certificate state the Particulars of any such Omission, and in what respect any such Matter shall have been mis-stated or erroneously described; and such Certificate shall be deposited with the Clerks of the Peace of the several Counties in which the Lands affected thereby shall be situate, and shall also be deposited with the Parish Clerks of the several Parishes in *England*, and with the Postmasters of the Post Towns in or nearest to such Parishes in *Ireland*, in which the Lands affected thereby shall be situate; and such Certificate shall be kept by such Clerks of the Peace, Parish Clerks, and Postmasters respectively along with the other Documents to which they relate; and thereupon such Plan, Book of Reference, or Schedule shall be deemed to be corrected according to such Certificate; and it shall be lawful for the Company to make the Works in accordance with such Certificate.

*Construction
of Railway.*

VIII. It shall not be lawful for the Company to proceed in the Execution of the Railway unless they shall have previously to the Commencement of such Work deposited with the Clerks of the Peace of the several Counties in or through which the Railway is intended to pass a Plan and Section of all such Alterations from the original Plan and Section as shall have been approved of by Parliament, on the same Scale and containing the same Particulars as the original Plan and Section of the Railway, and shall also have deposited with the Clerks of the several Parishes in *England*, and the Postmasters of the Post Towns in or nearest to such Parishes in *Ireland*, in or through which such Alterations shall have been authorized to be made, Copies or Extracts of or from such Plans and Sections as shall relate to such Parishes respectively.

Works not to be proceeded with until Plans of all Alterations authorized by Parliament have been deposited.

IX. The said Clerks of the Peace, Parish Clerks, and Postmasters shall receive the said Plans and Sections of Alterations, and Copies and Extracts thereof respectively, and shall retain the same, as well as the said original Plans and Sections, and shall permit all Persons interested to inspect any of the Documents aforesaid, and to make Copies and Extracts of and from the same, in the like Manner, and upon the like Terms, and under the like Penalty for Default, as is provided in the Case of the original Plans and Sections by an Act passed in the First Year of the Reign of Her present Majesty, intituled *An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament.*

Clerks of the Peace, &c. to receive Plans of Alterations, and allow Inspection.

7 W. 4. &
1 Vict. c. 83.

X. True Copies of the said Plans and Books of Reference, or of any Alteration or Correction thereof, or Extract therefrom, certified by any such Clerk of the Peace, which Certificate such Clerk of the Peace shall give to all Parties interested when required, shall be

Copies of Plans, &c. to be Evidence.

LXVII. And be it enacted, That all Regulations, Certificates, Notices, and other Documents in Writing purporting to be made or issued by or by the Authority of the Board of Trade, and signed by some Officer appointed for that Purpose by the Board of Trade, shall for the Purposes of this and the Special Act, and any Act incorporated therewith, be deemed to have been so made and issued, and that without Proof of the Authority of the Person signing the same, or of the Signature thereto, which Matters shall be presumed until the contrary be proved; and Service of any such Document, by leaving the same at One of the principal Offices of the Railway Company, or by sending the same by Post addressed to the Secretary at such Office, shall be deemed good Service upon the Company; and all Notices and other Documents required by this or the Special Act to be given to or laid before the Board of Trade shall be delivered at, or sent by Post addressed to, the Office of the Board of Trade in *London*.

Authentica-
tion of Cer-
tificates of
the Board
of Trade,
Service of
Notices, &c.

And with respect to Works for the Accommodation of Lands adjoining the Railway, be it enacted as follows :

*Works for
Protection
and Accom-
modation
of Lands.*

LXVIII. The Company shall make and at all Times thereafter maintain the following Works for the Accommodation of the Owners and Occupiers of Lands adjoining the Railway; (that is to say,)

Such and so many convenient Gates, Bridges, Arches, Culverts, and Passages over, under, or by the Sides of or leading to or from the Railway as shall be necessary for the Purpose of making good any Interruptions caused by the Railway to the Use of the Lands through which the Railway shall be made; and such Works shall be made forthwith after the Part of the Railway passing over such Lands shall have been laid out or formed, or during the Formation thereof :

Gates,
Bridges, &c. :

Also sufficient Posts, Rails, Hedges, Ditches, Mounds, or other Fences for separating the Land taken for the Use of the Railway from the adjoining Lands not taken, and protecting such Lands from Trespass, or the Cattle of the Owners or Occupiers thereof from straying thereout, by reason of the Railway, together with all necessary Gates made to open towards such adjoining Lands, and not towards the Railway, and all necessary Stiles; and such Posts, Rails, and other Fences shall be made forthwith after the taking of any such Lands, if the Owners thereof shall so require, and the said other Works as soon as conveniently may be :

Fences :

Also all necessary Arches, Tunnels, Culverts, Drains, or other Passages, either over or under or by the Sides of the Railway, of such Dimensions as will be sufficient at all Times to convey the Water as clearly from the Lands lying near or affected by the Railway as before the making of the Railway, or as nearly so as may be; and such Works shall be made from Time to Time as the Railway Works proceed :

Drains :

Also proper Watering Places for Cattle where by reason of the Railway the Cattle of any Person occupying any Lands lying near thereto shall be deprived of Access to their former Watering Places; and such Watering Places shall be so made as to be

Watering
Places.