



Mersey River Board Act 1964

CHAPTER xxxii

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ELIZABETH II



1964 CHAPTER xxxii

An Act to authorise the Mersey River Board to construct works and to acquire lands in connection with a diversion of the river Irwell in the county boroughs of Salford and Manchester; and for other purposes.

[31st July 1964]

WHEREAS the Mersey River Board (hereinafter called “the Board”) were constituted by the Mersey River Board Area Order, 1950, in pursuance of the River Boards Act, 1948, and are charged with the functions prescribed by that Act with respect to an area including all land draining to the river Irwell (hereinafter called “the river”):

And whereas the city and county borough of Salford (hereinafter called “Salford”) and the city and county borough of Manchester (hereinafter called “Manchester”), through both of which the river flows, have since the seventeenth century been subject to flooding caused by the river overflowing its banks:

And whereas it would be of public and local benefit to afford to lands in Salford and Manchester protection against flooding, which can be achieved to best advantage by a straightening of the channel of the river in Salford and Manchester between Broughton Bridge and Waterloo Bridge:

And whereas for the purposes aforesaid it is expedient that the Board should be empowered to construct the works authorised by this Act, and that the other powers contained in this Act should be conferred on the Board:

And whereas it is expedient that the other provisions of this Act be enacted:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

And whereas the Minister of Housing and Local Government and the Minister of Agriculture, Fisheries and Food have consented under section 21 of the River Boards Act, 1948, to the promotion of the Bill for this Act:

And whereas plans and sections showing the situations, lines and levels of the works authorised by this Act and the lands which may be taken or used compulsorily for the purposes thereof, and a book of reference to the said plans containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers, of those lands, and describing the same, were duly deposited in the office of the Clerk of the Parliaments, in the Private Bill Office of the House of Commons, and with the town clerks of Salford and Manchester, which plans, sections and book of reference are respectively referred to in this Act as the deposited plans, the deposited sections and the deposited book of reference:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I PRELIMINARY

Short title.

1. This Act may be cited as the Mersey River Board Act 1964.

Division of Act into Parts.

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

Part I—Preliminary.

Part II—Lands.

Part III—Works.

Part IV—Protective provisions.

Part V—Miscellaneous.

Incorporation of Acts.

3.—(1) The following enactments (so far as the same are applicable to the purposes and are not inconsistent with the provisions of this Act) are hereby incorporated with this Act:—

(a) The Lands Clauses Acts (except section 92, sections 127 to 133 and sections 150 and 151 of the Lands Clauses Consolidation Act, 1845):

Provided that the bond required by section 85 of the Lands Clauses Consolidation Act, 1845, shall be sufficient without the addition of the sureties mentioned in that section;

(b) Sections 77 to 85 of the Railways Clauses Consolidation Act, 1845:

Provided that—

(i) sections 78 to 85 of the said Act shall be incorporated as the same were originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act, 1923;

(ii) in section 78 of the said Act references to mines or minerals within the prescribed distance shall in relation to Work No. 1 be deemed to be references to mines or minerals which lie within a horizontal distance in any direction from any part of that work of one-half the depth of such coal or other minerals below an horizon of 90 feet above ordnance datum.

(2) In the construction of the enactments so incorporated with this Act the expressions “the promoters of the undertaking” and “the company” mean the Board and the expression “the railway” means the works authorised by section 17 (Power to make works) of this Act.

4.—(1) In this Act, unless there be something in the subject Interpretation or context repugnant to such construction—

“the Board” means the Mersey River Board;

“enactment” includes an enactment in this Act or in any general or local Act, or in a Provisional Order confirmed by an Act, or in any order, byelaw, regulation or scheme made under an Act;

“the highway authority” means, in the case of a highway maintainable at the public expense, the authority in whom that highway is vested;

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

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

“Manchester” means the city and county borough of Manchester;

“the Manchester Corporation” means the lord mayor, aldermen and citizens of Manchester;

“the Minister” means the Minister of Agriculture, Fisheries and Food;

PART I
—cont.

“ relevant authority ” means in relation to—

(a) any works executed or intended to be executed in Salford, the Salford Corporation ;

(b) any works executed or intended to be executed in Manchester, the Manchester Corporation;

(c) any works executed or intended to be executed partly in Salford and partly in Manchester, both the Salford Corporation and the Manchester Corporation;

(d) any sewers, culverts, drains or other works or apparatus vested in the Salford Corporation, that corporation;

(e) any sewers, culverts, drains, water mains or other works or apparatus vested in the Manchester Corporation, that corporation;

“ the river ” means the river Irwell;

“ Salford ” means the city and county borough of Salford;

“ the Salford Corporation ” means the mayor, aldermen and citizens of Salford;

“ street ” has the same meaning as in the Public Utilities Street Works Act, 1950;

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

“ the tribunal ” means the Lands Tribunal;

“ the works ” means the works referred to in section 17 (Power to make works), section 19 (Subsidiary river works) and section 20 (Power to make subsidiary works) of this Act.

(2) This Act shall be read as if the words “ or thereabouts ” were inserted after each distance or length mentioned in section 17 (Power to make works) of this Act.

(3) Any reference in this Act to a work identified by the number of the work shall be construed as a reference to the work of that number authorised by the said section 17 of this Act.

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

PART II

LANDS

Power to
acquire lands.

5.—(1) Subject to the provisions of this Act, the Board may enter upon, take and use such of the lands in Salford delineated on the deposited plans and described in the deposited book of

reference as they may require for the purposes of the works, of obtaining access thereto or materials for the construction thereof, or for the prevention of flooding.

PART II
—cont.

(2) The powers of compulsory acquisition of land under this section shall cease after 31st December, 1969.

6.—(1) If the deposited plans or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the Board, after giving not less than ten days' notice to the owner, lessee and occupier of the land in question, may apply to two justices having jurisdiction in Salford for the correction thereof.

Correction of errors in deposited plans and book of reference.

(2) If on any such application it appears to the justices that the misstatement or wrong description arose from mistake, the justices shall certify the fact accordingly and shall in their certificate state in what respect any matter is misstated or wrongly described.

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments and a copy thereof in the Private Bill Office, House of Commons, and with the town clerk of Salford, and thereupon the deposited plans and the deposited book of reference shall be deemed to be corrected according to the certificate, and it shall be lawful for the Board to take the land and execute the works in accordance with the certificate.

(4) A person with whom a copy of a certificate is deposited under this section shall keep it with the other documents to which it relates.

7.—(1) For the purposes of this Act, the following provisions of this section shall have effect in substitution for section 92 of the Lands Clauses Consolidation Act, 1845.

Acquisition of part only of certain properties.

(2) No person shall be required to sell a part only of any house, building or factory, or of a park or garden belonging to a house, if he is willing and able to sell the whole of the house, building, factory, park or garden unless the tribunal determines—

(a) in the case of a house, building or factory, that such part as is proposed to be taken can be taken without material detriment to the house, building or factory; or

(b) in the case of a park or garden, that such part as is proposed to be taken can be taken without seriously affecting the amenity or convenience of the house to which it belongs.

(3) If the tribunal determines as aforesaid, compensation shall be awarded in respect of any loss due to the severance of the part proposed to be taken in addition to the value of that part; and thereupon the person interested shall be required to sell to the Board that part of the house, building, factory, park or garden.

PART II
—cont.Power to
expedite entry.

8. At any time after serving a notice to treat in respect of any land that may be acquired compulsorily under this Act, or in respect of any easement or right over or in any such land, but not less than three months after giving the owner and occupier of the land notice in writing of their intention to exercise the powers of this section, the Board may without previous consent and without compliance with sections 84 to 90 of the Lands Clauses Consolidation Act, 1845, enter on the land, or on such part of it as may be specified in the last-mentioned notice, and take possession of the land or part or, as the case may be, enjoy any easement or exercise any right to be acquired under this Act over or in the land or part:

Provided that the Board shall pay the like compensation for land entered under this section, and the like interest on the compensation awarded, as would have been payable if the provisions of those sections had been complied with.

Power to
enter for
survey or
valuation.

9.—(1) Any person acting on behalf of the Board and duly authorised in that behalf by the clerk of the Board may, on producing if so required some duly authenticated document showing his authority, at all reasonable times enter on any land that the Board are authorised by this Act to acquire compulsorily for the purpose of surveying or valuing the land:

Provided that no land shall be entered under this section unless the Board, not less than seven days before the date of the first entry and not less than twenty-four hours before any subsequent entry, have given notice in writing to the owner and occupier of the land in manner provided by section 285 of the Public Health Act, 1936.

(2) Where land is damaged in the exercise of a right of entry or survey conferred under this section, any person interested in the land may recover from the Board compensation for the damage to be determined in case of dispute by the tribunal, and, so far as compensation is properly to be calculated by reference to the depreciation of the value of his interest in the land, rules 2 to 4 of the rules set out in section 5 of the Land Compensation Act, 1961, shall apply.

Disregard of
recent
improvements
and interests.

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

(a) any work executed, improvement or alteration made, or building erected, after 5th December, 1963; or

(b) any interest in the land created after the said date;

which in the opinion of the tribunal was not reasonably necessary and was executed, made, erected or created with a view to obtaining or increasing the compensation or purchase money.

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

PART II
—cont.

Extinction of
private rights
of way.

(2) Any person who suffers loss by the extinguishment of any right under this section shall be entitled to be paid by the Board compensation to be determined in case of dispute under and in accordance with the Land Compensation Act, 1961.

12.—(1) The Board may, instead of acquiring any land that they are authorised to acquire compulsorily under this Act, acquire compulsorily such easements and rights over or in the land as they may require for the purpose of constructing, using, maintaining, renewing or removing the works or of doing any other thing necessary in connection with the works.

Power to
acquire
easements
only.

(2) Accordingly the Board may give notice to treat in respect of any such easement or right describing the nature thereof; and the provisions of the Lands Clauses Acts shall apply in relation to the acquisition of such easements and rights as if they were lands within the meaning of those Acts.

(3) Where the Board have acquired an easement or right only over or in any land under this section—

- (a) they shall not be required or, except by agreement or during the execution of the works, entitled to fence off or sever that land from the adjoining land;
- (b) the owner or occupier of the land for the time being shall, subject to the easement or right, have the same right to use the land as if this section had not been enacted.

(4) If in his particulars of claim the owner of any land in respect of which notice to treat for an easement or right is given under this section requires the Board to acquire the land, the Board shall not be entitled under this section to acquire the easement or right unless the tribunal determines that the easement or right can be granted without material detriment to the land, or, in the case of a park or garden belonging to a house, without seriously affecting the amenity or convenience of the house; and, if the tribunal does not so determine, the Board may acquire the land compulsorily, notwithstanding that the period mentioned in subsection (2) of section 5 (Power to acquire lands) of this Act has expired, but not later than one year after the determination of the tribunal:

Provided that nothing in this subsection shall apply to land forming part of a street.

(5) A notice to treat given under this section shall be endorsed with notice of the effect of subsection (4) of this section.

PART II
—cont.

Grant of easements by persons under disability.

13.—(1) Any person empowered by the Lands Clauses Acts to sell and convey or release lands may if he thinks fit, subject to the provisions of those Acts, grant to the Board any easement or right required for the purposes of this Act, over or in the lands not being an easement or right of water in which some person other than the grantor has an interest.

(2) The provisions of the said Acts with respect to lands and rentcharges so far as they are applicable shall extend and apply to any such grant and to any such easement or right as aforesaid.

Agreements with adjoining owners.

14.—(1) The Board may enter into and carry into effect agreements with any person being the owner of, or interested in, any land abutting on any portion either of the works or of land that may be acquired under this Act with respect to the sale by the Board to him of any land, including any part of a street or highway appropriated by the Board under this Act and not required for the works.

(2) The Board may accept as satisfaction of the whole or any part of the consideration for any such sale the grant by the purchaser of any land required by the Board for the purposes of this Act or any easement or right so required.

Temporary possession of land.

15.—(1) This section applies to the lands delineated and numbered 3 to 8 on the deposited plans.

(2) The Board may, for the purpose of enabling them to construct the works, enter upon and take possession temporarily of any land to which this section applies, after serving on the owner, lessee and occupier thereof not less than one month's previous notice in writing and may remove any structures thereon:

Provided that the Board—

- (a) shall not remain in possession of any such land after a period of three years from the date of the notice to the owner, lessee and occupier of that land; and
- (b) shall not be empowered to purchase compulsorily or be required to purchase any land to which this section applies.

(3) On taking possession of land to which this section applies, the Board shall if so required by any owner, lessee or occupier thereof erect a fence not less than six feet in height between such land and the remainder of the hereditament from which it is temporarily severed and shall maintain such fence so long as the powers of this section are being exercised in relation to such land.

(4) The provisions of sections 43 and 44 of the Railways Clauses Consolidation Act, 1845, shall apply to land of which the Board take possession temporarily under the powers of this

section as if the reference therein to " the railway " were a reference to the works and as if references therein to " the company " were references to the Board.

PART II
—cont.

16. The purposes for which the Board may acquire land under section 13 of the River Boards Act, 1948 (which authorises river boards to acquire by agreement any land which they require for any purposes connected with the exercise of their functions), shall include the purpose of their functions under this Act. Power to acquire lands by agreement.

PART III

WORKS

17.—(1) Subject to the provisions of this Act, the Board may, in the lines and situations and upon the lands delineated upon the deposited plans and described in the deposited book of reference and according to the levels shown on the deposited sections, make and maintain in Salford and Manchester the works hereinafter described, together with all necessary and proper works and conveniences connected therewith or incidental thereto:— Power to make works.

Work No. 1 A diversion of the river commencing at a line drawn due north and south across the existing channel of the river through a point 247 yards east of the downstream face of Broughton Bridge (measured along the centre line of the river) and terminating at a line drawn due north-east by north and south-west by south across the said existing channel through a point 227 yards south of the downstream face of Sherborne Bridge (measured along the county borough constituency boundary);

Work No. 2 A widening of the river on its south bank commencing at the downstream face of Broughton Bridge and terminating at Work No. 1;

Work No. 3 A widening of the river on its north bank commencing at a point 155 yards east of the downstream face of Broughton Bridge and terminating at Work No. 1;

Work No. 4 A foul-water sewer under Springfield Lane;

Work No. 5 A foul-water sewer from St. Simon Street to Springfield Lane, being a deviation of an existing foul-water sewer;

Work No. 6 A public footbridge over Work No. 1 commencing by a junction with Springfield Lane on the north bank of Work No. 1 and terminating by a junction with the north side of East Philip Street on the south bank of Work No. 1;

PART III
—cont.

Work No. 7 A public footpath 34 yards in length commencing by a junction with the west side of Springfield Lane and terminating by a junction with the south side of East Philip Street.

(2) The diverted channel of the river comprised in Work No. 1 shall be constructed with a width between vertical river walls of not less than 120 feet.

(3) In the construction of Work No. 6 the Board shall erect on each side of the footbridge a good and sufficient fence at least 3 feet 6 inches high.

Power to deviate.

18. In the construction of the works authorised by section 17 (Power to make works) of this Act, the Board may deviate laterally from the lines or situations thereof shown on the deposited plans to any extent not exceeding the limits of deviation and may deviate vertically from the levels of those works shown on the deposited sections to any extent not exceeding ten feet either upwards or downwards.

Subsidiary river works.

19.—(1) The Board, in connection with Works Nos. 1, 2 and 3 and for the purposes thereof, may make, provide and maintain all necessary and convenient walls, embankments, piling, fences, culverts, drains, sewers, weirs, sluices, stairs and footpaths and all such machinery, works, appliances and conveniences as may be required:

Provided that any machinery, works, appliances or conveniences made, provided or maintained under the powers of this subsection shall be so made or provided and so maintained, worked and used as to prevent interference with any telegraphic line belonging to or used by the Postmaster General or with telegraphic communication by means of any such line.

(2) The Board, in connection with Work No. 1—

- (a) shall stop up and discontinue such portion of the river as will be rendered unnecessary by reason of the diversion thereof under the powers of this Act;
- (b) shall in exercise of their powers as river board for the Mersey River Board Area fill in the channel of the said portion of the river; and
- (c) may execute any works which they deem to be necessary in connection with the filling in of the channel of the said portion of the river.

(3) (a) Without prejudice to the generality of paragraph (c) of subsection (2) of this section, the Board shall—

- (i) if so required by the Salford Corporation, remove the existing bridge over the river known as Springfield Lane Bridge; and

- (ii) if so required by the Manchester Corporation and the Salford Corporation, remove the existing bridge over the river known as Sherborne Bridge;

PART III
—cont.

in each case including such parts of the foundations, abutments and timber protective works of the said bridges respectively as may be agreed between the Board and the relevant authority or in default of agreement determined by arbitration.

(b) The Board may sell the structure and materials so taken down and removed and apply the proceeds for the purpose of any of their functions under this Act.

(4) In the event of the Board being required under the last foregoing subsection to remove the Springfield Lane Bridge or the Sherborne Bridge the following provisions shall apply with respect to the bridge so removed:—

- (a) the Board shall replace the bridge with a highway to be constructed on an embankment or other structure which shall be of such strength as shall conform with any standard of loading for the time being prescribed by the Minister of Transport for an embankment or structure of that type;
- (b) the carriageway and footways of such highway shall be not less in width respectively than the existing carriageway and footways of the bridge and guard fences shall be erected along each side of the highway;
- (c) the highway so constructed shall, when completed, be maintained and repaired by and at the expense of the Board for a period of one year from the completion and opening thereof respectively for public use and, at the expiration of that period, shall vest in, and be maintained and repaired by and at the expense of the relevant authority.

20.—(1) Within the limits of deviation the Board, in connection with and for the purposes of the works authorised by section 17 (Power to make works) of this Act, may execute or do any of the following works or things:—

Power to
make
subsidiary
works.

- (a) execute any works for the protection of any adjoining land or buildings;
- (b) execute any works and do any things necessary for the strengthening and supporting of any walls of adjoining buildings or structures;
- (c) alter or remove any structure erected upon any street or land;
- (d) remove, alter, divert, stop up or interfere with any sewer, drain or watercourse, or any pipe, wire or

PART III
—cont.

apparatus, provided that the Board shall provide a proper substitute before interrupting the flow of sewage or water in any sewer, drain or watercourse;

- (e) raise, sink or otherwise alter the position of any of the steps, areas, cellars, windows and pipes or spouts belonging to any house or building and remove all other obstructions but so that the same be done with as little delay and inconvenience to the inhabitants as the circumstances of the case will admit; and
- (f) provide alternative means of access to premises the existing access to which has been or will be stopped up or interfered with by or as a result of the carrying out of the works;

and shall make reasonable compensation for any damage done by them in exercise of the powers of this section.

(2) Any question of disputed compensation payable under the foregoing provisions of this section shall be determined under and in accordance with the Land Compensation Act, 1961.

Underpinning
of houses
near works.

21. The Board at their own cost and charges may, subject as hereinafter provided, underpin or otherwise strengthen any house or building within one hundred feet of any of the works, and the following provisions shall have effect:—

- (1) At least fourteen days' notice shall (except in case of emergency) be given to the Salford Corporation and to the owners, lessees and occupiers of the house or building intended to be so underpinned or otherwise strengthened:
- (2) Each such notice shall be served in manner prescribed by section 19 of the Lands Clauses Consolidation Act, 1845:
- (3) If any owner or lessee or occupier of any such house or building shall, within seven days after the giving of such notice, give a counter-notice in writing that he disputes the necessity of such underpinning or strengthening, the question of the necessity shall be settled by arbitration:
- (4) The Board shall be liable to compensate the owners, lessees and occupiers of every such house or building for any loss or damage which may result to them by reason of the exercise of the powers granted by this section, provided that the claim for compensation in respect of such loss or damage is made within three months from the occurrence thereof:
- (5) In any case in which any house or building shall have been underpinned or strengthened under the powers

of this section the Board may, from time to time after the completion of such underpinning or strengthening, and during the execution of the work in connection with which such underpinning or strengthening was done, or within twelve months after the completion of that work, enter upon and survey such house or building and do such further underpinning or strengthening thereof as they may deem necessary or expedient or, in case of dispute between the Board on the one hand and the owner, lessee or occupier of the house or building on the other hand, as shall be settled by arbitration:

- (6) If in any such case as is referred to in the last foregoing paragraph the underpinning or strengthening done by the Board shall at any time within five years from the completion of the work in connection with which such underpinning or strengthening was done prove inadequate for the support or protection of the house or building against further injury arising from the execution of such work the Board shall make compensation to the owner, lessee and occupier of the house or building for such injury, provided that the claim for compensation in respect thereof be made within three months from the discovery thereof:
- (7) Nothing in this section nor any dealing with any property in pursuance of this section shall relieve the Board from the liability to compensate under section 68 of the Lands Clauses Consolidation Act, 1845, or under any other enactment:
- (8) Every case of compensation to be ascertained under this section shall be ascertained according to the provisions of the Lands Clauses Acts.

22.—(1) The Board may stop up the whole or such part or parts as they think fit of so much of Springfield Lane, Whitchurch Street and the other highways in Salford mentioned in Schedule 1 to this Act as is within the limits of deviation, and thereupon all rights of way, whether public or private, over or along the same shall be extinguished and the Board may appropriate and use the site thereof: Stopping up of highways.

Provided that the Board shall not under the powers of this section stop up any part of the highways mentioned in Schedule 1 to this Act unless—

- (a) such part is bounded on both sides by lands either belonging to the Board or of which the Board have taken possession under section 8 (Power to expedite entry) of this Act; or

PART III
—cont.

(b) the Board obtain the consent of the owners, lessees and occupiers of the houses and lands on both sides thereof which have access thereto.

(2) (a) Not less than twenty-eight days before stopping up any highway under the powers of this section the Board shall give notice of their intention to stop up the highway, specifying the date upon which the stopping up is to be effected, and embodying a plan showing the effect thereof—

(i) to the Salford Corporation; and

(ii) to the owners, lessees and occupiers of all lands adjoining the highway.

(b) Not later than twenty-eight days before the stopping up as aforesaid the Board shall cause a copy of the said notice to be displayed in a prominent position at the ends of the highway.

(c) Once at least in each of two successive weeks the Board shall publish in a local newspaper circulating in Salford a notice containing the particulars specified in paragraph (a) of this subsection, except that there may be substituted for the plan a statement of a place in Salford where the plan may be inspected free of charge at all reasonable hours.

(d) In this subsection references to a highway include references to a part of a highway.

(3) Any person who suffers loss by the extinguishment of any private right over the highway or part thereof stopped up under this section shall be entitled to be paid by the Board compensation to be determined in case of dispute under and in accordance with the Land Compensation Act, 1961.

Temporary
stoppage of
streets.

23.—(1) The Board, during and for the purpose of the execution of the works, may—

(a) temporarily stop up and divert and interfere with any highway;

(b) execute and do all necessary works and things for or in connection with such stopping up or diversion and for keeping any such highway open for traffic; and

(c) for any reasonable time divert the traffic from any such highway and prevent persons using the same.

(2) The Board shall not exercise the powers of this section—

(a) as respects any road without the consent of the highway authority, but such consent shall not be unreasonably withheld and any question whether such consent is or is not unreasonably withheld shall be determined by the Minister of Transport;

(b) so as to deprive foot-passengers bona fide going to or from any building or land abutting on the highway of reasonable access to the building or land; or

(c) so as to obstruct, or interfere with, the access to or exit from any station or depot of any railway or passenger road transport undertakers.

PART III
—cont.

24.—(1) The Board may use for the discharge of any water pumped or found by them during the construction of the works any available stream or watercourse, or any sewer or drain of the relevant authority, and for that purpose may lay down, take up and alter conduits, pipes and other works and may make any convenient connections with any such stream, watercourse, sewer or drain within the limits of deviation:

Use of
sewers, etc.,
for removing
water.

Provided that—

- (a) the Board shall not discharge any water into any sewer or drain vested in or under the control of the relevant authority except with the consent of the relevant authority and subject to such terms and conditions as that authority may reasonably impose; and
- (b) the Board shall not make any opening into any such sewer or drain save in accordance with plans reasonably approved by, and under the superintendence (if given) of, the relevant authority.

(2) The Board shall take all such steps as may reasonably be required to secure that any water discharged by them under the powers of this section shall be as free as is reasonably practicable from any gravel, soil or other solid substance or matter in suspension.

(3) Any difference arising between the Board and the relevant authority under this section shall be settled by arbitration.

25.—(1) The Board shall, during the execution and until the completion of so much of the works as is in, on or over or in any way affects a highway, secure at their expense that the following requirements are observed, that is to say:—

As to highway
works.

- (a) that so long as the highway is open or broken up (except in a place to which the public have no right of access and are not permitted to have access), it is adequately fenced and guarded, and lighted in such manner as to give proper warning to the public during the hours of darkness for the purposes of the Road Transport Lighting Act, 1957;
- (b) that traffic signs (within the meaning of the Road Traffic Act, 1960) are placed on the highway or elsewhere and, where so directed, operated and lighted, in accordance with any directions in that behalf which

PART III
—cont.

may be given by the Minister of Transport, as reasonably required for the guidance or direction of persons using the highway;

- (c) that no greater width or length of any highway than is reasonably necessary is open or broken up at any one time;
- (d) that there is no greater obstruction of traffic on any highway than is reasonably necessary; and
- (e) that any spoil or other material not required for the execution of the works or of the reinstatement and making good is carried away as soon as is reasonably practicable.

(2) Without prejudice to the generality of the requirement as to lighting imposed by paragraph (a) of the foregoing subsection it shall include a requirement to comply with any regulations made by the Minister of Transport in that behalf under section 8 of the Public Utilities Street Works Act, 1950, as if the Board were undertakers within the meaning of that Act.

(3) Any traffic sign provided in pursuance of a direction given under subsection (1) (b) of this section shall be deemed to be a traffic sign lawfully placed on or near a road in accordance with the provisions of section 52 of the Road Traffic Act, 1960, and the direction may provide that the provisions of section 14 of the said Act of 1960 shall apply to that traffic sign :

Provided that nothing in this section shall impose on a highway authority any liability in respect of a traffic sign provided in pursuance of any such direction and in relation to any such traffic sign the said section 52 shall have effect as if for the references therein to a highway authority there were substituted references to the Board.

(4) If the Board fail to satisfy an obligation to which they are subject by virtue of subsection (1) of this section as regards any requirement mentioned in paragraphs (a), (b) or (e) thereof, the highway authority may do anything needed for securing observance of that requirement and the Board shall pay to the highway authority an amount equal to any cost reasonably incurred by them of so doing.

Vesting and
maintenance
of certain
works.

26.—(1) (a) In this subsection—

“ the appropriate Minister ” means, in relation to Works Nos. 4 and 5 and all works and conveniences ancillary thereto, the Minister of Housing and Local Government; in relation to Works Nos. 6 and 7 and all works and conveniences ancillary thereto, the Minister of Transport; and in relation to any drain, the Minister;

“ drain ” means any drain which is agreed by the Board and the owner of the fee simple of any land (or in default of agreement determined by the appropriate Minister) to be necessary for the drainage of that land or any buildings thereon in connection with the filling in of the channel of the discontinued portion of the river pursuant to subsection (2) of section 19 (Subsidiary river works) of this Act;

“ special work ” means Works Nos. 4, 5, 6 and 7 and all works and conveniences ancillary thereto respectively.

(b) When a special work or any part thereof has been completed to the reasonable satisfaction of the Salford Corporation (or, in the case of difference between the Board and the Salford Corporation, when the appropriate Minister has certified that the special work has been completed to his satisfaction) the special work or that part thereof, as the case may be, shall for a period of one year from the completion thereof be maintained by and at the expense of the Board and at the expiration of that period shall vest in, and shall thereafter be maintained by, the Salford Corporation.

(c) When a drain has been completed to the reasonable satisfaction of the owner of the land concerned (or, in the case of difference between the Board and the owner, when the appropriate Minister has certified that the drain has been completed to his satisfaction) the drain shall for a period of one year from the completion thereof be maintained by and at the expense of the Board and at the expiration of that period shall vest in the owner of the land concerned and shall thereafter be maintained by him and his successors in title.

(d) Before applying to the appropriate Minister for a certificate for the purposes of this subsection the Board shall give to the Salford Corporation, or the owner of the land concerned, as the case may be, not less than seven days' notice in writing of their intention so to apply.

(2) Any sewers, drains or works (in this subsection referred to as “ apparatus ”) rendered unnecessary by the substitution of other apparatus therefor under the powers conferred by this Act shall vest in the Board and, subject to the provisions of subsection (1) of this section, any such substituted apparatus shall be under the same jurisdiction, care, management and direction as the existing apparatus for which it is substituted.

27. If the works authorised by section 17 (Power to make works) of this Act are not completed within ten years from the 1st October, 1964, then on the expiration of that period the powers by this Act granted to the Board for making and completing the said works or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Period for completion of works.

PART III
—cont.

Extinction of
rights of
navigation.

28. Upon the completion of Work No. 1 and the stopping up and discontinuance of the portion of the river which is rendered unnecessary by reason of the diversion thereof under the powers of this Act all rights of navigation along, on or over the said portion of the river so stopped up, and all rights of user of the said portion by vessels or craft of any description, shall cease and be extinguished.

River
diversion
to be part
of main river.

29. Works Nos. 1, 2 and 3, when completed and brought into operation, shall be part of the main river of the Board for the purposes of Part II of the Land Drainage Act, 1930, and thereupon—

(a) the portion of the river filled in under the powers conferred by this Act shall cease to be part of the main river; and

(b) the map approved by the Minister on 22nd January, 1951, under section 6 of the River Boards Act, 1948, shall be varied by the Minister in such a manner as appears to him to be necessary to give effect to the provisions of this section and the variation when made shall be deemed to have been made under the said section 6.

As to plan
of discon-
tinued portion
of river.

30. Before stopping up the portion of the river which is to be discontinued under the powers of this Act the Board shall record upon a plan the course of that portion and shall deposit copies of such plan at the Town Hall, Manchester, and the Town Hall, Salford, which copies shall be open at all times during ordinary business hours to inspection by any person interested who shall be entitled without payment of a fee to make copies thereof.

Confirmation
of scheduled
agreement.

31. The agreement dated 15th day of November, 1963, and made between the Manchester Ship Canal Company of the one part and the Board of the other part, a copy of which is set forth in Schedule 2 to this Act, is hereby confirmed.

PART IV

PROTECTIVE PROVISIONS

Crown rights.

32. Nothing in this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown and in particular, and without prejudice to the generality of the foregoing, nothing in this Act authorises the Board to take, use or in any manner interfere with any land, hereditaments, subjects or rights of whatsoever description belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of the said commissioners first had and obtained for that purpose.

33.—(1) Where in pursuance of the powers conferred by section 22 (Stopping up of highways) of this Act the Board stop up or divert the whole or any portion of a highway the following provisions of this subsection shall, unless otherwise agreed in writing between the Board and the Postmaster General, have effect in relation to so much of any telegraphic line belonging to or used by the Postmaster General as is under, in, upon, over, along or across the land which by reason of the stopping up or diversion ceases to be a highway (in this subsection referred to as “the affected line”) (that is to say):—

PART IV
—cont.

For protection
of Postmaster
General.

- (a) The power of the Postmaster General to remove the affected line shall be exercisable notwithstanding the stopping up or diversion of the highway or part of the highway so, however, that the said power shall not be exercisable as respects the whole or any part of the affected line after the expiration of a period of three months from the date of the sending of the notice referred to in the next following subsection, unless before the expiration of that period the Postmaster General has given notice to the Board of his intention to remove the affected line or that part thereof, as the case may be:
- (b) The Postmaster General may by notice in that behalf to the Board abandon the affected line or any part thereof and shall be deemed as respects the affected line or any part thereof to have abandoned it at the expiration of the said period of three months, unless before the expiration of that period he has removed it or given notice of his intention to remove it:
- (c) The Postmaster General shall be entitled to recover from the Board the expense of providing in substitution for the affected line and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the affected line a telegraphic line in such other place as he may require:
- (d) Where under paragraph (b) of this subsection the Postmaster General has abandoned the whole or any part of the affected line it shall vest in the Board and the provisions of the Telegraph Acts, 1863 to 1962, shall not apply in relation to it as respects anything done or omitted after the abandonment thereof.

(2) As soon as practicable after the whole or any portion of a highway has been stopped up or diverted in pursuance of the powers referred to in subsection (1) of this section the Board shall send by post to the Postmaster General a notice informing him of such stopping up or diversion.

PART IV
—cont.

(3) (a) The Board shall not, under the powers conferred by section 20 (Power to make subsidiary works) or section 24 (Use of sewers, etc., for removing water) of this Act, alter any telegraphic line belonging to or used by the Postmaster General except in accordance with and subject to the provisions of paragraphs (1) to (8) of section 7 of the Telegraph Act, 1878.

(b) In this subsection the expression “alter” has the same meaning as in the Telegraph Act, 1878.

(4) The exercise by the Board of the powers conferred by section 23 (Temporary stoppage of streets) of this Act in relation to any highway shall not prejudice or affect the right of the Postmaster General—

(a) to maintain, inspect, repair, renew or remove any telegraphic line belonging to or used by him which may for the time being be under, in, upon, over, along or across that highway; or

(b) for the purpose of such maintenance, inspection, repair, renewal or removal to enter upon or break open that highway.

For protection
of Manchester
and Salford
Corporations.

34. For the protection of the relevant authority the following provisions shall, unless otherwise agreed in writing between the Board and the relevant authority, apply and have effect:—

(1) In this section—

“prescribed work” means any culvert constructed pursuant to sub-paragraph (a) of paragraph (2) of this section and any connection made under sub-paragraph (b) of that paragraph;

“the signed plan” means the plan signed in triplicate by Rowland Ernest Woodward on behalf of the Board and Sir Philip Burrington Dingle and Robert Ribblesdale Thornton on behalf of the relevant authorities, one copy of which has been deposited at the offices of the clerk of the Board, another at the Town Hall, Manchester, and the third at the Town Hall, Salford:

(2) In exercise of their powers under paragraph (c) of subsection (2) of section 19 (Subsidiary river works) of this Act the Board shall—

(a) construct such culvert or culverts as may be necessary for effectually dealing with the drainage of surface or foul water which, before the passing of this Act, was discharged into the portion of the river to be stopped up and discontinued under paragraph (a) of the said subsection (2) and for effectually dealing with the disposal of any underground

water which before such stopping up and discontinuance issued from a spring or other source in the bed of the said portion of the river; and

PART IV
—cont.

(b) in the case of the pipes or drains coloured blue on the signed plan, to the reasonable satisfaction of the relevant authority connect each of them with a culvert to be constructed under the foregoing subparagraph and in the case of any spring or other source lay such pipes and take such measures as are necessary to divert the underground water issuing therefrom into a culvert to be constructed in accordance with the foregoing sub-paragraph:

(3) Before making any connection with a culvert in accordance with sub-paragraph (b) of the foregoing paragraph the Board shall make proper and adequate provision for the uninterrupted discharge and disposal of drainage or underground water (as the case may be) during the execution of the works for such connection from the pipes or drains to be connected to such culvert:

(4) (a) When any prescribed work has been completed to the reasonable satisfaction of the relevant authority that prescribed work shall vest in—

(i) in the case of a prescribed work wholly within the area of one relevant authority, that authority;

(ii) in the case of a prescribed work partly within the area of one relevant authority and partly within the area of the other, either or both of those authorities as they may agree or in default of agreement as may be determined by arbitration;

but shall be maintained by and at the expense of the Board for a period of one year from such completion;

(b) From and after the expiration of such period—

(i) the prescribed work shall be maintained by the authority in whom it was vested and shall for all purposes be deemed to be a public sewer constructed by that authority under section 15 of the Public Health Act, 1936, and vested in that authority under section 20 of the said Act;

(ii) the authority in whom a prescribed work is vested shall be entitled at all times and from time to time to inspect, repair, alter or renew the prescribed work as if the prescribed work were a public sewer constructed under a street:

(5) The Board shall repay to the Manchester Corporation the reasonable expenses incurred by that corporation in carrying out such works as may be necessary to take

PART IV
—cont.

into existing public sewers the drainage from the pipes or drains coloured red on the signed plan and for the stopping up of the said pipes or drains and such expenses may be recovered by that corporation in any court of competent jurisdiction:

- (6) Any difference arising between the Board and a relevant authority, or between the relevant authorities, under this section (other than a difference as to the construction of the section) shall be settled by arbitration.

For further protection of Manchester and Salford Corporations.

35. For the protection of the relevant authority the following provisions shall, unless otherwise agreed in writing between the Board and the relevant authority, apply and have effect:—

- (1) In this section—

“ authorised work ” means—

(a) any work executed by the Board for the purpose of complying with their obligation under paragraph (b) of subsection (2) of section 19 (Subsidiary river works) of this Act to fill in the channel of the discontinued portion of the river or any work executed in connection therewith under paragraph (c) of that subsection;

(b) any highway, embankment or other structure constructed by the Board under subsection (4) of section 19 (Subsidiary river works) of this Act;

(c) any special work as defined in section 26 (Vesting and maintenance of certain works) of this Act;

(d) any prescribed work as defined in section 34 (For protection of Manchester and Salford Corporations) of this Act;

(e) any other work (other than a work of maintenance and repair) executed by the Board under the powers conferred by this Act over, under, across or so as in any way to affect any highway, sewer, culvert, drain, water main or other apparatus or work or other property of the relevant authority;

“ plans ” includes sections, drawings and specifications:

- (2) Notwithstanding anything in this Act or shown on the deposited plans or contained in the deposited book of reference, the Board shall not under the powers of this Act acquire compulsorily any sewer, culvert, drain, water main or other apparatus vested in the relevant authority:

Provided that nothing in this paragraph shall prevent the vesting in the Board of any sewer, culvert, drain, water main or other apparatus of the relevant authority under the provisions of subsection (2) of section 26 (Vesting and maintenance of certain works) of this Act:

PART IV
—cont.

- (3) The Board shall, except in case of emergency, before commencing an authorised work furnish to the relevant authority plans thereof for their reasonable approval and shall not commence such work until such plans have been approved in writing by the relevant authority or, if the relevant authority shall not approve the plans, until the same shall have been settled by arbitration:

Provided that in any case where any plans have been submitted to both the relevant authorities and either or both those authorities disapprove such plans the plans shall not be deemed to have been approved unless approved by both the authorities and in any arbitration proceedings which may take place as a result of the disapproval of one of the relevant authorities the relevant authority which is not a party to the proceedings shall be entitled to be heard in such proceedings and the plans as settled by such arbitration shall be deemed to have been approved by such relevant authority (whether or not it has been heard in the proceedings):

- (4) If the relevant authority do not within twenty-eight days of the submission to them of any plans pursuant to paragraph (3) of this section intimate to the Board their approval or disapproval thereof, they shall be deemed to have approved of the same:
- (5) In any case where an authorised work consists of either filling in or removal the obligation of the Board to submit plans of the authorised work shall be satisfied by the submission of a notice of intention to carry out the authorised work and a description of the work:
- (6) Upon signifying their approval or disapproval of the said plans the relevant authority may specify any temporary or permanent protective works which in their opinion should be carried out before the commencement of the works to ensure the stability of any highway, sewer, culvert, drain or water main or other apparatus work or property of the relevant authority or to protect it from injury and such temporary or permanent protective works as may be reasonably necessary for those purposes shall be constructed by the Board with all reasonable dispatch and the Board shall not commence the execution of the works until such temporary or permanent protective works have been completed:

PART IV
—cont.

- (7) (a) An authorised work shall not be constructed otherwise than in accordance with such plans as may be approved or deemed to be approved by the relevant authority as aforesaid or settled by arbitration and shall be constructed to the reasonable satisfaction of the relevant authority who shall be given reasonable notice of the date and time on and at which the work is to be commenced;
- (b) The Board shall at all reasonable times afford to the relevant authority and to persons duly authorised by them access to the works for the purpose of inspection:
- (8) The Board shall be responsible for and make good to the relevant authority all costs, charges, damages and expenses which may be occasioned to the relevant authority by—
- (a) the construction or renewal of, or any failure of, any authorised works;
 - (b) any subsidence caused by the construction thereof; or
 - (c) any act or omission of the Board, their contractors, agents, workmen or servants whilst engaged upon the authorised works;
- and the Board shall effectually indemnify the relevant authority against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the relevant authority by reason of such construction, renewal, failure, subsidence, act or omission as is referred to in paragraphs (a), (b) and (c) of this paragraph:
- Provided that—
- (i) the liability of the Board under this paragraph in relation to the renewal or failure of an authorised work being a work falling within paragraphs (b), (c) or (d) of the definition of that expression shall be limited to the period before the date upon which the relevant authority shall have become responsible under this Act for the maintenance of such work, and to making good defects, imperfections or other faults which occurred during that period but had not been rectified before such date;
 - (ii) the relevant authority shall give to the Board reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Board:
- (9) The fact that any work or thing has been executed or done in accordance with a plan approved or not objected

to by the relevant authority or to their satisfaction or in accordance with any directions or award of an arbitrator shall not relieve the Board from any liability under the provisions of this section:

PART IV
—cont.

- (10) Any difference arising between the Board and the relevant authority under this section (other than a difference as to the construction of the section) shall be settled by arbitration.

36. For the further protection of the Manchester Corporation the following provisions shall unless otherwise agreed in writing between the Board and the Manchester Corporation apply and have effect:—

For further protection of Manchester Corporation.

- (1) In this section unless the subject or context otherwise requires—

“ apparatus ” means water mains, pipes, valves, hydrants, stopcocks and other apparatus belonging to or lawfully laid, erected or maintained by the Manchester Corporation and includes any works constructed for the lodging therein of apparatus;

“ in ” in a context referring to apparatus includes under, over, along, across or upon;

“ position ” includes depth;

“ the signed plan ” means the plan signed in duplicate by Rowland Ernest Woodward on behalf of the Board and by Sir Philip Burrington Dingle on behalf of the Manchester Corporation one duplicate of which has been deposited at the office of the clerk of the Board and one at the Town Hall, Manchester:

- (2) Whenever by virtue of the provisions of section 19 (Subsidiary river works), section 20 (Power to make subsidiary works), or section 22 (Stopping up of highways) of this Act any highway or portion of a highway to which any of those sections applies and in which any apparatus is situate is stopped up or diverted the Manchester Corporation shall notwithstanding such stopping up or diversion continue to have the same powers and rights in respect of any apparatus (not being apparatus rendered derelict or unnecessary) remaining in the highway or portion of a highway so stopped up or diverted as if the same had remained a highway, or may, and if reasonably required by the Board shall, with all reasonable dispatch—

(a) remove the apparatus and relay or replace the same in the highway (if any) substituted for the highway or portion of highway so stopped up or in some other position; or

PART IV
—cont.

(b) provide and lay or place other apparatus in such substituted highway or in some other position in lieu of such existing apparatus:

- (3) (a) The Board shall in the construction of Work No. 6 make provision to the reasonable satisfaction of the Manchester Corporation for the footbridge comprised in that work to carry a water main of the said corporation having an internal diameter of 8 inches;
- (b) The said water main shall be deemed to have been constructed within or under a street or bridge for the purpose of the application of the Waterworks Clauses Act, 1847, to the waterworks undertaking of the Manchester Corporation:
- (4) The Manchester Corporation shall construct apparatus in the positions shown on the signed plan in substitution for apparatus which may be removed or be required to be removed and where the substituted apparatus is to be constructed in lands which the Board are authorised by this Act to acquire the Board shall acquire such lands and shall grant to the Manchester Corporation upon such terms and conditions as may be agreed between the Board and the Manchester Corporation or, in default of agreement, determined by arbitration such easements as may be required for the construction, inspection, maintenance, repair and renewal of the apparatus:
- (5) Whenever by reason or in consequence of the exercise by the Board of the powers of section 17 (Power to make works) of this Act or the said sections 19, 20 or 22 any apparatus (other than apparatus for which new apparatus has been substituted at the expense of the Board under the provisions of this section) is rendered derelict, useless or unnecessary the Board shall forthwith pay to the Manchester Corporation such a sum as may be agreed between the Board and the Manchester Corporation or as, failing agreement between them, may be determined by arbitration to be the value of the apparatus so rendered derelict, useless or unnecessary and such apparatus shall upon such payment become the property of the Board:
- (6) The Board shall repay to the Manchester Corporation the reasonable expenses incurred by the Manchester Corporation of or in connection with the removal and relaying or replacing of any apparatus and the provision and laying or placing of any new apparatus under the

provisions of paragraph (2) of this section and the reasonable costs of and incidental to—

PART IV
—cont.

(i) the cutting off of any apparatus from any other apparatus; and

(ii) any other work or thing rendered reasonably necessary in consequence of any such operations as are referred to in this paragraph:

Provided that subsections (3) and (4) of section 23 of the Public Utilities Street Works Act, 1950 (which imposes limitations on undertakers' rights to payment) shall so far as applicable extend and apply to any payment to be made by the Board under this paragraph as if the works hereinbefore in this paragraph mentioned were such undertakers' works as are referred to in the said subsection (3) and as if in that subsection for the words "specified as so necessary in a specification of the works set out in Part I of the Fourth Schedule to this Act or agreed so to be by the promoting authority" there were substituted the words "agreed or settled by arbitration under section 36 (For further protection of Manchester Corporation) of the Mersey River Board Act 1964":

(7) (a) The Board shall, so far as is reasonably practicable, so exercise the powers conferred by the following sections of this Act as not to render less convenient the access to any apparatus:—

Section 19 (Subsidiary river works);

Section 20 (Power to make subsidiary works);

Section 21 (Underpinning of houses near works);

(b) Nothing in the said sections, or in section 17 (Power to make works) of this Act, shall relieve the Board from liability for damage caused by them to any apparatus in the exercise of the powers of those sections:

(8) (a) Any difference arising between the Board and the Manchester Corporation under this section shall be settled by arbitration;

(b) In settling any difference under this section the arbitrator shall have regard to any duty or obligation the Manchester Corporation may be under in respect of any apparatus and may, if he thinks fit, require the Board to execute any temporary or other works so as to avoid so far as may be reasonably possible interference with any purpose for which the apparatus is used.

PART IV
—cont.

For protection
of gas and
electricity
undertakers.

37. For the protection of the undertakers the following provisions shall, unless otherwise agreed in writing between the Board and the undertakers concerned, apply and have effect:—

(1) In this section—

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

“apparatus” means—

(a) in relation to the North Western Electricity Board, electric lines or works (as respectively defined in the Electric Lighting Act, 1882) belonging to or lawfully laid or erected by that board; and

(b) in relation to the North Western Gas Board, pipes and other apparatus belonging to or lawfully laid, erected or maintained by that board;

and includes any structure for the lodging therein of apparatus;

“authorised work” means any work carried out or thing done under the powers of section 17 (Power to make works), section 19 (Subsidiary river works), section 20 (Power to make subsidiary works) or section 21 (Underpinning of houses near works) of this Act;

“in” in a context referring to apparatus includes under, over, across, along or upon;

“position” includes depth;

“the undertakers” means the North Western Electricity Board, the North Western Gas Board or either of them:

(2) Notwithstanding anything in this Act or shown on the deposited plans, the Board shall not, except as provided in paragraph (14) of this section acquire any apparatus under the powers of this Act otherwise than by agreement:

(3) Subject to the provisions of paragraph (14) of this section, if the Board in the exercise of the powers of this Act acquire any interest in any land in which any apparatus is placed, that apparatus shall not be removed under this section, nor shall any right of the undertakers to use, maintain, repair, renew or inspect any apparatus in that land be extinguished, until any necessary adequate alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the undertakers concerned:

- (4) (a) If the Board, for the purpose of or in connection with the construction of any authorised work, require the removal of any apparatus, they shall give to the undertakers concerned written notice of such requirement with a plan and section of the proposed work;
- (b) If the Board require the undertakers to remove any apparatus, or if in consequence of the exercise of any of the powers of this Act the undertakers shall reasonably require to remove any apparatus, the Board shall, if practicable, afford to the undertakers the necessary facilities and rights for the construction of adequate alternative apparatus in other lands of the Board and thereafter for the maintenance, repair, renewal and inspection of such apparatus:
- Provided that if the alternative apparatus or any part thereof is to be constructed elsewhere than in other lands of the Board, and the Board are unable to afford such facilities and rights as aforesaid in the lands in which the alternative apparatus or such part thereof is to be constructed, the undertakers shall, on receipt of a written notice to that effect from the Board, forthwith use their best endeavours to obtain the necessary facilities and rights:
- (5) (a) Any alternative apparatus to be constructed in lands of the Board in pursuance of paragraph (4) of this section shall be constructed in such manner and in such line or situation as may be agreed between the undertakers concerned and the Board or, in default of agreement, settled by arbitration;
- (b) The undertakers shall, after the manner of construction and the line and situation of any necessary alternative apparatus has been agreed or settled by arbitration as aforesaid and after the grant to the undertakers of any such facilities and rights as are referred to in paragraph (4) of this section, proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the Board to be removed under the provisions of this section and, in default, the Board may remove the apparatus:
- (6) Notwithstanding anything in paragraph (5) of this section, if the Board give notice in writing to the undertakers that they desire themselves to execute any part of so much of the work necessary in connection with the construction of the alternative apparatus or the removal of the apparatus required to be removed as will be situate in any lands of the Board, such work, in

PART IV
—cont.

lieu of being executed by the undertakers shall be executed by the Board with all reasonable dispatch under the superintendence, if given, and to the reasonable satisfaction of the undertakers:

Provided that nothing in this paragraph shall authorise the Board to execute the actual placing, erection, installation, bedding, packing, removal, connection or disconnection of any apparatus or any filling around the apparatus (where the apparatus is laid in a trench) within 12 inches above the apparatus:

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

Provided that—

(a) in determining such terms and conditions as aforesaid in respect of alternative apparatus to be constructed across or through an authorised work the arbitrator shall—

(i) give effect to all reasonable requirements of the Board for ensuring the safety and efficient operation of the authorised work and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any such work; and

(ii) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to any terms and conditions applicable to the apparatus constructed in the lands of the Board for which the alternative apparatus is to be substituted;

(b) if the facilities and rights to be afforded by the Board in respect of any alternative apparatus, and the terms and conditions subject to which the same are to be granted are, in the opinion of the arbitrator, more or less favourable on the whole to the undertakers concerned than the facilities, rights, terms and conditions applying to the apparatus to be removed, the arbitrator shall make such provision for the payment of compensation to or by the Board by or

to the undertakers in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the particular case:

PART IV
—cont.

- (8) (a) Not less than twenty-eight days before commencing to execute an authorised work which is near to or is likely to affect any apparatus the removal of which has not been required by the Board under paragraph (4) of this section, the Board shall submit to the undertakers concerned a plan, section and description of the work to be executed;
- (b) Such work shall be executed substantially in accordance with the plan, section and description submitted as aforesaid and in accordance with such reasonable requirements as may be made by the undertakers for the alteration or otherwise for the protection of the apparatus, or for securing access thereto, and the undertakers shall be entitled by their officer to watch and inspect the execution of such work:

Provided that—

(i) if the undertakers within fourteen days after the submission to them of any such plan, section and description shall, in consequence of the work proposed by the Board, reasonably require the removal of any apparatus and give written notice to the Board of such requirement, the foregoing provisions of this section shall apply and have effect as if the removal of such apparatus had been required by the Board under paragraph (4) thereof; and

(ii) nothing in this sub-paragraph shall preclude the Board from submitting at any time, or from time to time, but in no case less than twenty-eight days before commencing the execution of any such work, a new plan, section and description in lieu of the plan, section and description previously submitted and thereupon the provisions of this paragraph shall apply to and in respect of such new plan, section and description;

- (c) The Board shall not be required to comply with sub-paragraph (a) of this paragraph in a case of emergency but, in such a case, they shall give to the undertakers notice as soon as reasonably practicable and a plan, section and description of the work as soon as reasonably practicable thereafter and shall comply with sub-paragraph (b) of this paragraph so far as reasonably practicable in the circumstances:

PART IV
—cont.

(9) The Board shall repay to the undertakers the reasonable expenses incurred by the undertakers in or in connection with—

(a) the removal and relaying or replacing of any apparatus and the provision and construction of any new apparatus under the provisions of paragraph (4) of this section;

(b) the subsequent alteration or adaptation of apparatus required under the provisions of proviso (a) (i) to paragraph (7) of this section;

(c) the inspection or superintendence of any works executed by the Board under the provisions of paragraph (6) of this section;

and the reasonable costs of and incidental to—

(i) the cutting off of any apparatus from any other apparatus; and

(ii) any other work or thing rendered reasonably necessary in consequence of any such operations as are referred to in this paragraph:

Provided that subsections (3) and (4) of section 23 of the Public Utilities Street Works Act, 1950 (which imposes limitations on undertakers' rights to payment), shall so far as applicable extend and apply to any payment to be made by the Board under this paragraph as if the Board were the promoting authority and the works hereinbefore in this paragraph mentioned were such undertakers' works as are referred to in the said subsection (3) and as if in that subsection for the words "specified as so necessary in a specification of the works settled under Part I of the Fourth Schedule to this Act or agreed so to be by the promoting authority" there were substituted the words "agreed or settled by arbitration under section 37 (For protection of gas and electricity undertakers) of the Mersey River Board Act 1964":

(10) If by reason or in consequence of the execution of any authorised work any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) of the undertakers or property of the undertakers or any interruption in the supply of electricity or gas by the undertakers shall be caused, the Board shall—

(a) make reasonable compensation to the undertakers for any loss sustained by them; and

(b) indemnify the undertakers against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the undertakers;

by reason or in consequence of any such damage or interruption:

PART IV
—cont.

Provided that—

(i) nothing in this paragraph shall impose any liability on the Board with respect to any damage or interruption which may be attributable to the act, neglect or default of the undertakers or their contractors or workmen;

(ii) the undertakers shall give to the Board reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Board:

- (11) If in consequence of the exercise of the powers of this Act the access to any apparatus of the undertakers is materially obstructed, the Board shall provide an alternative means of access to such apparatus:
- (12) Where in consequence of this Act any highway or part of a highway in which any apparatus is situate is stopped up or diverted the undertakers shall, notwithstanding such stopping up or diversion, continue to have the same powers and rights in respect of any apparatus (not being apparatus rendered derelict or unnecessary) remaining in the highway or part of a highway so stopped up or diverted as if the same had remained a highway, but nothing in this paragraph shall prejudice or affect any right of the Board or the undertakers to require removal of such apparatus under this section, or the power of the Board to execute works in accordance with paragraph (8) of this section:
- (13) Notwithstanding the stopping up or diversion temporarily of any highway under the powers of section 23 (Temporary stoppage of streets) of this Act, the undertakers shall be at liberty at all times to execute and do all such works and things in, upon or under any such highway as may be necessary for inspecting, repairing, maintaining, renewing, or removing any apparatus which at the time of the stopping up or diversion was in that highway:
- (14) Where by reason or in consequence of the exercise of the powers of this Act any apparatus belonging to the undertakers is rendered derelict or unnecessary, the Board shall pay to the undertakers the then value of such apparatus (which shall thereupon become the property of the Board) and the reasonable cost of, and incidental to, the cutting off of the apparatus from any other

PART IV
—*cont.*

apparatus and the execution or doing of any works or things rendered necessary or expedient by reason or in consequence of the apparatus being so rendered derelict or unnecessary:

Provided that the Board shall not under the provisions of this paragraph be required to pay to the undertakers the value of any apparatus rendered derelict or unnecessary if, under the provisions of this section, adequate alternative apparatus has been constructed at the expense of the Board in substitution for the apparatus so rendered derelict or unnecessary:

(15) (a) Any difference which may arise between the Board and the undertakers under this section shall be referred to and determined by arbitration;

(b) In settling any difference under this section the arbitrator shall have regard to any duty or obligation the undertakers may be under in respect of any apparatus and may if he thinks fit require the Board to execute any temporary or other works so as to avoid so far as may be reasonably possible interference with any purpose for which the apparatus is used.

For protection
of Manchester
Ship Canal
Company.

38. For the protection of the Manchester Ship Canal Company (in this section referred to as “the company”) the following provisions, unless otherwise agreed in writing between the Board and the company, shall have effect:—

If the agreement dated the 15th day of November, 1963, and made between the company of the one part and the Board of the other part is rescinded, the provisions of section 61 of the Land Drainage Act, 1930, shall apply to the construction of Works Nos. 1, 2 and 3 as if those works were such works as are referred to in that section and for that purpose the said section 61 shall have effect as if for the words “this Act or any order made thereunder,” wherever those words occur, there were substituted the words “the Mersey River Board Act 1964”.

PART V

MISCELLANEOUS

Power to
borrow.

39.—(1) Subject to the provisions of this Act, the Board shall have power from time to time to borrow by mortgage without the consent of any sanctioning authority for and in

connection with the purposes mentioned in column (1) of the following table the respective sums mentioned in column (2) of that table, and shall pay off all moneys so borrowed within such periods as the Board may determine not exceeding those respectively mentioned in column (3) of that table:—

PART V
—cont.

(1) Purpose	(2) Amount	(3) Period for repayment calculated (except where otherwise stated) from the date or dates of borrowing
(a) The acquisition of lands and easements	£600,000	Thirty years.
(b) The execution of the works ...	£350,000	Thirty years.
(c) The payment of the costs charges and expenses of this Act	The sum requisite	Five years from the passing of this Act.

(2) The Board may also, with the sanction of the Minister, borrow by mortgage such further money as may be necessary for any of the purposes of this Act, and any money borrowed under this subsection shall be repaid within such period (not exceeding sixty years) as may be prescribed by the Minister.

(3) Moneys borrowed by the Board under this section shall be charged indifferently on all the revenues of the Board.

(4) Subject to the provisions of this section, sections 199, 200, 203, 205, 206, 207 (except subsection (5)) and 208 to 214 of the Local Government Act, 1933, and section 10 of the Local Government (Financial Provisions) Act, 1963, so far as they are applicable to the borrowing of money by the Board by mortgage under this section, shall apply to such borrowing, subject to the following modifications:—

(a) for references to a local authority there shall be substituted references to the Board;

(b) for references to the Minister of Health there shall be substituted references to the Minister;

PART V
—cont.

(c) the expression “prescribed,” except in the said section 205, shall mean—

(i) where regulations made under section 11 of the River Boards Act, 1948, or section 92 of the Water Resources Act, 1963, are for the time being in force, prescribed by those regulations;

(ii) in any other case, prescribed by regulations made by the Minister;

(d) for references to the county fund or the general rate fund there shall be substituted references to the general revenues of the Board.

(5) For the purposes of paragraph (b) of subsection (1) of section 11 of the River Boards Act, 1948, the borrowing of money on mortgage by the Board under this section shall be deemed to have been authorised by the said section 11.

(6) Nothing in this section shall be taken as authorising the Board to exercise the powers of borrowing conferred thereby otherwise than in compliance with the provisions of the Local Authorities Loans Act, 1945, and any order for the time being in force made under section 1 of the Borrowing (Control and Guarantees) Act, 1946.

Application
of section 55
of Land
Drainage
Act, 1930

40. For the purposes of section 55 of the Land Drainage Act, 1930 (which empowers the Minister of Agriculture, Fisheries and Food to make contributions out of public moneys towards expenses incurred by river boards in improvement of existing works or construction of new works), expenditure incurred by the Board under this Act shall be deemed to be expenditure incurred under the Land Drainage Act, 1930.

Inquiries by
Minister.

41. The Minister may cause to be held such inquiries as he may consider necessary in regard to the exercise of any powers or duties conferred or imposed upon him by this Act and the giving of any consent or approval under this Act and section 290 of the Local Government Act, 1933, shall apply to any such inquiry as if the expression “department” in that section included the Minister, the inquiry were an inquiry held in pursuance of subsection (1) of that section and the Board were a local authority.

Arbitration.

42. Where under this Act any difference (other than a difference to which the provisions of the Lands Clauses Acts apply) is to be referred to or settled by arbitration, then, unless

otherwise provided, such difference shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

PART V
—cont.

43. The provisions of the Town and Country Planning Act, 1962, and any restrictions or powers thereby imposed or conferred in relation to land shall apply and may be exercised in relation to any land notwithstanding that the development thereof is or may be authorised or regulated by or under this Act.

Saving for town and country planning.

44. The costs, charges and expenses preliminary to, and of and incidental to, the applying for and the preparing, obtaining and passing of this Act shall be paid by the Board out of moneys to be borrowed for that purpose or out of any moneys in their hands.

Costs of Act.

SCHEDULES

Section 22.

SCHEDULE 1

HIGHWAYS IN SALFORD TO BE STOPPED UP WHOLLY OR IN PART

Bedford Street.
 Bridgewater Street.
 Coade Street.
 East Cross Street.
 East Henry Street.
 East James Street.
 East Philip Street.
 East Robert Street.
 East York Street.
 St. Simon Street.
 Unnamed footway at rear of 100 to 122 St. Simon Street.
 Unnamed footway at rear of 82 to 92 Bridgewater Street and 2 to 14 East Henry Street.

Section 31.

SCHEDULE 2

THIS AGREEMENT is made the Fifteenth day of November One thousand nine hundred and sixty-three BETWEEN THE MANCHESTER SHIP CANAL COMPANY (hereinafter called "the Canal Company") of the one part and MERSEY RIVER BOARD (hereinafter called "the Board") of the other part.

WHEREAS:—

(1) The Canal Company are the Harbour Authority for the Harbour and Port of Manchester (hereinafter called "the Port") which comprises (inter alia) the Manchester Ship Canal and so much of the navigable waters of the Rivers Mersey and Irwell as lie between Hunts Bank in Manchester and the limit of the Port of Liverpool at Warrington.

(2) The Board as the river board for the Mersey River Board Area are desirous of constructing works within the county boroughs of Salford and Manchester for the improvement of the River Irwell (hereinafter referred to as "the River") including a diversion and partial straightening of the channel of the River between the eastern face of Broughton Bridge and a point not less than one hundred and sixty yards downstream from the southern face of Sherborne Bridge or three hundred and thirty yards upstream from the north-western face of Waterloo Bridge and for the purpose of obtaining the necessary powers propose to promote a Bill to be known as the "Mersey River Board Bill" (hereinafter referred to as "the Bill").

(3) The said diversion and partial straightening of the channel of the River (hereinafter referred to as "the improvement works") will be constructed at places on the River which are situate above the Port and the Canal Company apprehend that their construction will increase the velocity of the flow of water into the Port thereby causing additional siltation and consequently increasing the cost of the dredging which they carry out in order to keep the Port open for shipping.

(4) Under Section 61 of the Land Drainage Act, 1930, as applied to the Board by the River Boards Act, 1948, and amended by the Land Drainage Act, 1961, the consent of the Canal Company is required to certain works which may interfere with the undertaking of the Canal Company.

SCH. 2
—cont.

NOW THIS DEED WITNESSETH and it is hereby mutually agreed and declared by and between the parties hereto as follows:—

1. The Canal Company hereby consent to the construction of the improvement works by the Board upon the terms and conditions hereinafter contained.

2. The Board shall before commencing the construction of the improvement works or any part thereof furnish to the Canal Company plans sections and specifications thereof for the approval of the Chief Engineer for the time being of the Canal Company (hereinafter referred to as “the Engineer”) which approval shall not be unreasonably withheld and shall not commence the improvement works or any part thereof until such plans sections and specifications shall have been approved in writing by the Engineer or if he shall not approve the plans sections and specifications until the same shall have been settled by arbitration. Provided that if within one month after such plans have been furnished to the Canal Company the Engineer shall not have intimated his approval or disapproval he shall be deemed to have approved them.

3. Upon signifying his approval or disapproval of the said plans sections and specifications the Engineer may specify any additional works whether temporary or permanent which in his opinion should be carried out for the protection of the Port and such additional works as are agreed by the Board or determined by arbitration to be reasonably necessary for that purpose shall be carried out by the Board at their expense.

4. If at any time after the Board have commenced to construct the improvement works the flow of water in the River at a site to be agreed between the Engineer of the Board and the Engineer or determined by arbitration shall in the course of any flood in any one period of twenty-four hours be at the respective rates hereinafter mentioned the Board will pay to the Canal Company for and in respect of each such period compensation at the respective rates hereinafter mentioned that is to say:—

Rate of flow of water.	Payment.
Exceeding 15,000 cubic feet per second but not exceeding 16,000 cubic feet per second.	£1,600 0s. 0d.
Exceeding 16,000 cubic feet per second but not exceeding 17,000 cubic feet per second.	£3,200 0s. 0d.
Exceeding 17,000 cubic feet per second but not exceeding 18,000 cubic feet per second.	£4,800 0s. 0d.

SCH. 2
—cont.

And so on upon a scale increasing at the rate of One Thousand Six Hundred Pounds for each additional one thousand cubic feet per second of flow.

5. The payments referred to in the preceding clause are based upon the present cost of dredging to the Canal Company which is Five Shillings per cubic yard and shall be subject to variation from time to time in proportion to any subsequent increase or decrease in the cost of dredging. Any dispute as to whether any such increase or decrease has occurred and as to the amount thereof shall be referred to arbitration.

6. The payments to be made by the Board under this Agreement shall be deemed to be in satisfaction of all claims to which the Canal Company would or might otherwise be entitled against the Board for compensation in respect of any increase in their dredging costs caused by reason of the construction of the improvement works.

7. For the purpose of ascertaining the rate of flow of the water in the River at the site agreed or determined in accordance with Clause 4 hereof the Board shall at their own expense contemporaneously with the commencement of the improvement works construct and at all times thereafter maintain in thorough working order to the satisfaction of the Engineer such gauges as shall well and sufficiently record the rate of flow of the water in the River at the said site and the Engineer and all persons authorised by him shall be at liberty at all reasonable hours to inspect and check the said gauges.

8. The Board will take or cause to be taken continuous readings from the said gauges for the purpose of showing the rate of flow of water in the River and will duly record such readings as aforesaid and will furnish copies thereof to the Canal Company when required so to do by them.

9. Where under this Agreement any matter is to be settled or determined by arbitration the reference shall be to a single arbitrator to be agreed upon between the parties or failing agreement appointed by the President of the Institution of Civil Engineers on the application of either party after notice to the other.

10. This Agreement shall be scheduled to and confirmed by the Bill and is subject to such alterations therein as may be made by Parliament, but in the event of Parliament making any material alteration in this Agreement, or in the provisions of the Bill confirming the same, either party may rescind this Agreement which shall thereupon become void and the provisions of the Bill confirming the same shall be withdrawn.

IN WITNESS whereof the parties hereunto have caused their Common Seals to be hereunto affixed the day and year first before written.

THE COMMON SEAL of The Manchester Ship Canal Company was hereunto affixed in the presence of	}	R. S. HARPER R. MOSS D. K. REDFORD, <i>Secretary.</i>	}	<i>Directors.</i>
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THE COMMON SEAL of the Mersey River Board was hereunto affixed in the presence of	}	R. E. WOODWARD, <i>Clerk of the Board.</i>
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Table of Statutes referred to in this Act

Short title	Session and chapter
Lands Clauses Consolidation Act, 1845 ...	8 & 9 Vict. c. 18.
Railways Clauses Consolidation Act, 1845...	8 & 9 Vict. c. 20.
Waterworks Clauses Act, 1847	10 & 11 Vict. c. 17.
Telegraph Act, 1878	41 & 42 Vict. c. 76.
Electric Lighting Act, 1882	45 & 46 Vict. c. 56.
Mines (Working Facilities and Support) Act, 1923	13 & 14 Geo. 5 c. 20.
Land Drainage Act, 1930	20 & 21 Geo. 5 c. 44.
Local Government Act, 1933	23 & 24 Geo. 5 c. 51.
Public Health Act, 1936	26 Geo. 5 & 1 Edw. 8 c. 49.
Local Authorities Loans Act, 1945	8 & 9 Geo. 6 c. 18.
Borrowing (Control and Guarantees) Act, 1946	9 & 10 Geo. 6 c. 58.
River Boards Act, 1948	11 & 12 Geo. 6 c. 32.
Lands Tribunal Act, 1949	12, 13 & 14 Geo. 6 c. 42.
Public Utilities Street Works Act, 1950 ...	14 Geo. 6 c. 39.
Road Transport Lighting Act, 1957... ..	5 & 6 Eliz. 2 c. 51.
Road Traffic Act, 1960	8 & 9 Eliz. 2 c. 16.
Land Compensation Act, 1961	9 & 10 Eliz. 2 c. 33.
Land Drainage Act, 1961	9 & 10 Eliz. 2 c. 48.
Town and Country Planning Act, 1962 ...	10 & 11 Eliz. 2 c. 38.
Water Resources Act, 1963	1963 c. 38.
Local Government (Financial Provisions) Act, 1963	1963 c. 46.

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