

ELIZABETH II



1965 CHAPTER xxxviii

An Act to provide for the improvement of the approaches to the Mersey Tunnel in the county borough of Birkenhead by the construction of street works and otherwise; to authorise the mayor, aldermen and burgesses of the county borough to purchase lands compulsorily; to confer further powers on the said mayor, aldermen and burgesses; and for other purposes.
[5th August 1965]

WHEREAS—

(1) The borough of Birkenhead (hereinafter referred to as “the borough”) is a county borough under the management and local government of the mayor, aldermen and burgesses of the borough (hereinafter referred to as “the Corporation”):

(2) In pursuance of the Mersey Tunnel Acts, 1925 to 1933, a tunnel (hereinafter referred to as “the tunnel”) was constructed by the lord mayor, aldermen and citizens of the city of Liverpool and the Corporation under the river Mersey between the city of Liverpool and the borough:

(3) The volume of vehicular traffic using the tunnel has increased and continues to increase and has resulted in very considerable traffic congestion in the streets forming the approaches to the tunnel in the borough:

(4) In order to relieve such congestion it is expedient to empower the Corporation to make and maintain the works

described in this Act and in connection therewith to provide areas for the marshalling of vehicles using or intending to use the tunnel:

(5) It is expedient to confer on the Corporation powers relative to the purchase and use of lands and easements for the several purposes mentioned in this Act:

(6) It is expedient that the other provisions contained in this Act be enacted:

(7) Estimates have been prepared by the Corporation for and in connection with the following purposes:—

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(a) the construction of the works authorised by this Act	2,114,000
(b) the provision of areas for the marshalling of vehicles using or intending to use the tunnel	148,000:

(8) The works included in such estimates are permanent works and it is expedient that the Corporation be empowered to borrow money for those purposes as provided by this Act:

(9) The purposes of this Act cannot be effected without the authority of Parliament:

c. 51. (10) In relation to the promotion of the Bill for this Act the requirements of Part XIII of the Local Government Act, 1933, have been observed:

(11) Plans and sections, showing the lines and levels of the works authorised by this Act and showing the lands required or which may be taken for the purposes or under the powers of this Act, and also a book of reference containing the names of owners and lessees, or reputed owners and lessees, and of the occupiers of those lands, were in the month of March, 1965, deposited in the office of the Clerk of the Parliaments and in the Private Bill Office, House of Commons, and with the town clerk of the borough which plans, sections and book of reference are in this Act referred to respectively as the deposited plans, sections and 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, that is to say:—

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Birkenhead Corporation (Mersey Tunnel Approaches) Act 1965.

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

Part I.—Preliminary.

Part II.—Lands.

Part III.—Works.

Part IV.—Finance and miscellaneous.

PART I

—cont.

Division of
Act into
Parts.

3.—(1) In this Act unless otherwise expressly enacted or unless the subject or context otherwise requires the several words and expressions to which meanings are assigned by section 295 of the Highways Act, 1959, have the same respective meanings. c. 25.
Interpretation.

(2) In this Act unless the subject or context otherwise requires the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings and—

“ the Act of 1933 ” means the Local Government Act, c. 51. 1933;

“ the borough ” means the county borough of Birkenhead;

“ the Corporation ” means the mayor, aldermen and burgesses of the borough acting by the council of the borough;

“ enactment ” includes an enactment in this Act or in any public, general or local Act and any order, byelaw or regulation for the time being in force;

“ house ” has the same meaning as in section 343 of the Public Health Act, 1936; c. 49

“ the Joint Committee ” means the Mersey Tunnel Joint Committee incorporated by the Mersey Tunnel Act, 1925; c. cx.

“ land ” includes any interest in land and any easement or right in, to, under or over land;

“ the Lands Clauses Acts ” means the Lands Clauses Acts as modified by the Lands Tribunal Act, 1949, and by the Land Compensation Act, 1961; c. 42.

“ the limits of deviation ” means the limits of deviation shown on the deposited plans; c. 33.

“ marshalling area ” means an area provided in pursuance of section 32 (Provision of marshalling areas) of this Act for the marshalling of vehicles using or intending to use the tunnel;

“ the Minister ” means the Minister of Transport;

“ relocation of population or industry ” has, in relation to lands which may be acquired under this Act, the meaning assigned to that term in section 221 of the Town and Country Planning Act, 1962, in relation to an area of obsolete development; c. 38.

“ reserved area ” means any area for the time being set apart in or adjacent to the works or marshalling areas for dividing lines of traffic or for separating footway and

PART I
—cont.

c. 76.

carriageway or, where no part of the works has been laid out as footway, for separating the carriageway from the adjoining lands;

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

“ the town clerk ” means the town clerk of the borough;

“ the tribunal ” means the Lands Tribunal;

“ the tunnel ” means the tunnel and works authorised by the Mersey Tunnel Acts, 1925 to 1933;

“ the tunnel approaches ” means Works Nos. 3, 4, 5, 7, 8, 9, 13 and 16;

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

(3) Where in this Act any distance or length is stated in the description of any work, the reference to that distance or length shall be construed as if the words “ or thereabouts ” were inserted after such distance or length.

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

(5) Any reference in this Act to a work identified by the number of such work shall be construed as a reference to the work of that number, together with the works subsidiary thereto, authorised by this Act.

Incorporation
of Acts.

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

c. 18.

(1) the Lands Clauses Acts (except sections 92, 127 to 133 and 150 and 151 of the Lands Clauses Consolidation Act, 1845, and section 5 of the Lands Clauses Consolidation Acts Amendment Act, 1860):

c. 106.

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;

c. 20.

(2) the provisions of the Railways Clauses Consolidation Act, 1845, with respect to the temporary occupation of lands near the railway during the construction thereof:

Provided that for the purposes of this Act—

(a) the expression “ the promoters of the undertaking ” and “ the Company ” in the said Acts shall be construed to mean the Corporation;

(b) the expression “ the railway ” in the Railways Clauses Consolidation Act, 1845, shall be construed to mean the works; and

(c) the expression “ the centre of the railway ” in the said Act shall be construed to mean any part of the works.

PART II

LANDS

5.—(1) Subject to the provisions of this Act, the Corporation may enter upon, take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as they may require for the purposes of the works and of the marshalling areas or any purpose connected therewith, and for the purpose of recoupment, reinstatement or exchange or other the purposes of this Act or for any of those purposes.

Power to
acquire
lands.

(2) Subject to the provisions of this Act, the Corporation may enter upon, use and appropriate so much of the subsoil and under-surface of any street maintainable at the public expense delineated on the deposited plans and described in the deposited book of reference as shall be necessary for the purposes of the works and of the marshalling areas without being required to purchase the same or any easement therein or thereunder, or to make any payment therefor.

(3) The powers of compulsory acquisition of land under this section shall cease after the expiration of three years from 1st December, 1965.

(4) Nothing in this Act shall authorise the Corporation without the consent in writing of the Postmaster General to enter upon, take or use the lands numbered 70, 71, 72, 73, 75, 76, 77, 78 and 79 on the deposited plans or to construct any works thereover, thereon or thereunder.

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 Corporation, 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 the borough 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, 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 Corporation to take the land and execute the works in accordance with the certificate.

PART II
 —cont.

(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.

Acquisition
 of part only
 of certain
 properties.

c. 18.

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.

(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 Corporation that part of the house, building, factory, park or garden.

c. 34.

(4) In this section “factory” means a factory within the meaning of the Factories Act, 1961.

Power to
 expedite
 entry.

8.—(1) 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 of their intention to exercise the powers of this section, the Corporation 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 Corporation 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.

(2) Any land of which possession is taken by the Corporation under the powers of this section shall be deemed, for the purposes of section 11 (Extinction of private rights of way) of this Act to have been acquired by the Corporation.

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

PART II
—cont.

Power to enter for survey or valuation.

Provided that no land shall be entered under this section unless the Corporation 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 to the owner and occupier of the land.

(2) The power of survey conferred by the foregoing subsection includes power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein:

Provided that a person shall not carry out any works authorised by this subsection unless notice of his intention to do so was included in the notice required by the foregoing subsection.

(3) 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 Corporation 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.

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—

Disregard of recent improvements and interests.

(1) any improvements or alteration made, or building erected, after 17th March, 1965; or

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

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

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.

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 Corporation compensation to be determined in case of dispute under and in accordance with the Land Compensation Act, 1961.

PART II
—cont.Power to
acquire
easements
only.

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

(2) Accordingly the Corporation 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 Corporation 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 said 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 Corporation to acquire the land, the Corporation 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 Corporation may acquire the land compulsorily notwithstanding that the period mentioned in subsection (3) 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.

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 Corporation 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.

PART II
—cont.

14. The power of the Corporation of purchasing land by agreement shall include power to purchase land by agreement for the purpose of providing substituted sites or facilities for the owners and occupiers of land that may be acquired under this Act.

Provision of substituted sites.

15.—(1) The Corporation may enter into and carry into effect an agreement or arrangement with the owner or occupier of any land acquired or to be acquired under this Act with respect to his reinstatement.

Power to reinstate owners or occupiers of property.

(2) Any such agreement may provide for the exchange of land; and for that purpose the Corporation may pay or receive money for equality of exchange.

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

Agreements with adjoining owners.

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

17.—(1) The Corporation may purchase land by agreement in order to provide for the relocation of population or industry from any lands within the limits of deviation.

Acquisition of land for relocation of population or industry.

(2) The Corporation by means of an order made by the Corporation and submitted to the Minister of Housing and Local Government and confirmed by him may be authorised to purchase compulsorily any land for the purposes aforesaid.

(3) The Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply in relation to land proposed to be purchased compulsorily by an order under subsection (2) of this section as if this section were an enactment contained in a public general Act and in force immediately before the commencement of the said Act of 1946.

18.—(1) The Corporation may, in connection with the relocation of population or industry from any lands within the limits of deviation, lay out and develop—

Power to develop land for relocation of population or industry.

(a) any land acquired by them either by agreement or compulsorily under or in pursuance of this Act; and

PART II
—cont.

(b) any land belonging to them and not required for the purpose for which it was acquired;

and may erect and maintain houses, shops, offices, industrial buildings, garages, warehouses and other buildings and construct, sewer, pave, flag, channel, kerb and light streets, roads and ways on any such lands.

(2) No power conferred upon the Corporation by the foregoing provisions of this section shall be exercised in such a manner—

(a) as to be at variance with any trust subject to which any land or building is held, managed or controlled by the Corporation without an order of the High Court or of the Charity Commissioners or of the Secretary of State for Education and Science (as the case may be) or (where the trust instrument reserves to the donor or any other person the power to vary the trust) without the consent of the donor or that other person; or

(b) as to contravene any covenant or condition subject to which a gift or lease of any land or building has been accepted by or granted to the Corporation without the consent of the donor, grantor, lessor or other person entitled in law to the benefit of the covenant or condition.

(3) Without prejudice to the powers conferred upon the Corporation by the foregoing provisions of this section the Corporation may enter into and carry into effect agreements with any local authority or with any association, body or person for the provision by any such local authority, association, body or person of houses, shops, offices, industrial buildings, warehouses and other buildings for the relocation of population or industry from any lands within the limits of deviation and any such agreement may provide for the making of contributions by the Corporation towards the expense thereby incurred by any such local authority, association, body or person.

(4) In this section “industrial building” includes a building used or designed for use for the carrying on of any process for, or incidental to, any of the following purposes, namely:—

- (a) the making of any article or of part of any article; or
- (b) the altering, repairing, ornamenting, finishing, cleaning, washing, freezing, packing or canning, or adapting for sale or breaking up or demolition, of any article; or
- (c) without prejudice to the foregoing paragraphs, the getting, dressing or preparation for sale of minerals or the extraction or preparation for sale of oil or brine;

being a process carried on in the course of trade or business; and for the purposes of this definition “building” includes part of a building and “article” means an article of any description including a ship or vessel.

19. The powers of the following provisions of this Part of this Act shall not be exercised with respect to any land outside the borough except with the consent of the council of the county borough or county district (as the case may be) in which the land is situate; but any such consent shall not be unreasonably withheld, and any question whether any such consent is or is not unreasonably withheld shall be determined by the Minister of Housing and Local Government:—

PART II
—cont.

As to exercise of certain provisions of Part II of this Act.

subsection (1) of section 17 (Acquisition of land for relocation of population or industry);

subsection (1) of section 18 (Power to develop land for relocation of population or industry);

PART III

WORKS

20.—(1) Subject to the provisions of this Act, the Corporation may within the borough make and maintain, in the lines or situations shown on the deposited plans and according to the levels shown on the deposited sections, the works hereinafter described with all necessary works and conveniences connected therewith—

Power to construct works.

Work No. 1 A re-alignment widening and improvement of Chester Street commencing at Chester Street railway overbridge and terminating at its junction with Water Street:

Work No. 2 A new street in parts to be below the existing street level commencing at the Chester Street railway embankment at a point 35 yards south of Waterloo Place and 30 yards west of Chester Street and terminating near the junction of Chester Street and Pilgrim Street:

Work No. 3 A new street and a re-alignment widening and improvement of Tunnel Road commencing near the Chester Street railway overbridge at a point 18 yards west of Chester Street and terminating in Tunnel Road 60 yards south of its junction with Getley Street:

Work No. 4 A further improvement and widening of Chester Street commencing at the tunnel offices on the east side of the tunnel entrance in Kings Square and terminating at the junction of Chester Street with Market Street:

Work No. 5 A new street including a bridge over the new street (Work No. 2) commencing at Kings Square at the exit from the tunnel and terminating near the junction of Chester Street and St. Mary's Gate:

PART III
—cont.

Work No. 6 A new street in parts to be raised above the existing street level including a viaduct over the new street (Work No. 2), Egerton Street, Tunnel Road, Jackson Street and Thomas Street and the railway between Tunnel Road and Jackson Street commencing by a junction with Work No. 3, 57 yards south of Waterloo Place and terminating in Borough Road near its junction with Hind Street:

Work No. 6A A new street in part to be raised above the existing street level including a viaduct over the new street (Work No. 2) commencing in Chester Street 53 yards north of Waterloo Place and terminating by a junction with Work No. 6, 20 yards east of Egerton Street:

Work No. 7 A new street in parts to be raised above the existing street level including a viaduct over Getley Street, Egerton Street, Tunnel Road, Jackson Street, Thomas Street, Borough Road, Wilbraham Street, the new street (Work No. 12) and the railway between Tunnel Road and Jackson Street commencing at Kings Square at the exit from the tunnel and terminating in Borough Road at its junction with Nelson Street:

Work No. 8 A new street in parts to be raised above the existing street level including a viaduct over the railway between Tunnel Road and Jackson Street, Jackson Street, Grange Road, the Haymarket, Oliver Street and Argyle Street commencing 7 yards west of the south-western corner of Aabacas Engineering Works and terminating in Conway Street near its junction with York Street:

Work No. 9 A new street in parts to be raised above the existing street level including a viaduct over Wilbraham Street and Borough Place commencing at the junction of Wilbraham Street and Borough Road and terminating in Borough Road at its junction with Grange Road:

Work No. 10 A widening and improvement of Borough Road commencing at its junction with Stafford Street and terminating at its junction with Clifton Crescent:

Work No. 11 A new street to form a gyratory system of traffic operation including improvements of Clifton Crescent, Wilbraham Street, Borough Road and the junctions of those roads with Argyle Street, Borough Road, Hind Street and Argyle Street South, commencing at the junction of Clifton Crescent and Borough Road, proceeding in a north easterly southerly westerly and northerly direction and terminating at its point of commencement:

Work No. 12 A new street commencing approximately 45 yards east of the junction of Hind Street and Borough Road and terminating near the junction of Borough Road and Borough Place:

Work No. 13 A new street in parts to be raised above the existing street level including a viaduct over Argyle Street commencing in Conway Street at a point about 22 yards west of Argyle Street and terminating at the junction of Oliver Street and the Haymarket:

Work No. 14 A widening and improvement of Conway Street commencing at its junction with Camden Street and terminating at its junction with Argyle Street and an improvement of the latter junction:

Work No. 15 A widening and improvement of Hinson Street commencing at its junction with Argyle Street and terminating at its junction with Hamilton Street:

Work No. 16 A new street commencing in Argyle Street near its northerly junction with Conway Street and terminating at the Haymarket:

Work No. 17 A new street commencing in Oliver Street near its junction with the Haymarket and terminating at Grange Road near its junction with Borough Road.

(2) The Corporation shall erect a good and sufficient fence on each side of every bridge or viaduct comprised in Works Nos. 5, 6, 6A, 7, 8, 9 and 13.

21. In executing the works the Corporation may deviate laterally from the lines or situations thereof to any extent within the limits of deviation relating thereto respectively and may deviate from the levels shown on the deposited sections to any extent not exceeding 10 feet either upwards or downwards.

22.—(1) Subject to the provisions of this Act and within the limits of deviation, the Corporation in connection with the works may—

(a) make and maintain all such approaches, subways, roundabouts, flyovers, underpasses, overpasses, stairs, ramps, passages, means of ingress or egress, shafts, stagings, buildings, apparatus, plant and machinery as may be necessary or convenient;

(b) make junctions and communications (including the provision of steps or ramps for the use of persons on foot) with any existing or proposed streets which may be intersected or interfered with by or be contiguous with the works or any of them;

Power to deviate.

Power to make subsidiary works.

PART III
—cont.

- (c) make diversions, widenings or alterations of lines or levels of any existing streets for the purpose of connecting the same with the works or any of them or of crossing under or over the same or otherwise;
- (d) construct and provide carriageways, footways, reserved areas, vaults, cellars, arches, sewers, drains, subways, sunken or other ornamental gardens and all such bridges, piers, viaducts, embankments, aprons, tunnels, abutments, retaining walls, wing walls, culverts and other works as may be necessary or convenient for the works or for carrying the same over or under any railway, any stream or watercourse, any street or any land;
- (e) stop up and appropriate the site and soil of so much of any streets as they may consider unnecessary to retain or necessary to throw into the works;
- (f) execute any works for the protection of any adjoining land or buildings;
- (g) execute any works and do anything necessary for the strengthening and supporting of any walls or adjoining buildings;
- (h) remove, alter, divert or stop up any drain, sewer, channel or watercourse, the Corporation providing a proper substitute before interrupting the flow of sewage in any drain or sewer or water in any channel or watercourse; and
- (i) alter or remove any monument, drinking trough, lamp-post, refuge, railings or other structure erected upon any street or land and plant trees, shrubs or other vegetation;

together with all necessary or convenient subsidiary and incidental works.

(2) Any paving, metalling or materials in, on or under any street altered or diverted by the Corporation under the powers of this Part of this Act and any sewers, drains and works (hereinafter called "apparatus") rendered unnecessary by the substitution of other apparatus therefor shall vest in the Corporation, and the substituted apparatus shall be under the same jurisdiction, care, management and direction as the existing apparatus for which it may be so substituted.

(3) In the exercise of the powers conferred by this section the Corporation shall cause as little detriment and inconvenience as circumstances admit to any person and shall make reasonable compensation for any damage caused by the exercise of such powers.

(4) Within the limits of deviation the Corporation may 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 may remove all other obstructions so that the same be done with as little delay and inconvenience to the inhabitants as the circumstances of the case will admit and shall make reasonable compensation for any damage caused by the exercise of the powers of this subsection.

PART III
—cont.

(5) 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. c. 33.

(6) The Corporation shall not under the powers conferred by paragraphs (a) to (d) and (f) to (i) of subsection (1) of this section 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. c. 76.

(7) In subsection (6) of this section the expression “alter” has the same meaning as in the Telegraph Act, 1878.

23.—(1) The Corporation may for the purpose of, and during the execution of, the works over or under any railway, erect, place or execute and maintain upon, over or under such railway all such temporary structures, erections, works, apparatus and appliances as may be necessary or convenient and as will not prevent the safe use of such railway or interfere to any greater extent than is reasonably necessary with the traffic thereon. Power to execute temporary works on railways.

(2) Any question or dispute arising under this section shall be determined by the Minister.

24.—(1) The Corporation may stop up the whole or such portion or portions as they think fit of so much of the streets mentioned in Part I of the schedule to this Act as is shown on the deposited plans as intended to be stopped up and thereupon all rights of way over or along the same shall be extinguished and the Corporation may appropriate and use the site thereof: Stopping up of streets.

Provided that the Corporation shall not under the powers of this section stop up any part of the said streets unless—

- (a) such part is bounded on both sides by lands belonging to the Corporation; or
- (b) the Corporation obtain the consent of the owners, lessees and occupiers of the houses and lands on both sides thereof.

(2) Upon the completion of any of the works where the same is constructed by way of viaduct wholly or partly over any portion of the streets referred to in Part II of the schedule to this Act the site of such portion of street shall vest in the Corporation and all rights of way over or along the same shall be extinguished and the Corporation may appropriate and use the site thereof.

PART III
 —cont.

(3) Any person who suffers loss by—

- (a) the appropriation of any site of which he is the owner; or
- (b) the extinguishment of any private right;

under this section shall be entitled to be paid by the Corporation compensation to be determined in case of dispute under and in accordance with the Land Compensation Act, 1961.

c. 33.

(4) For the purposes of this Act the provisions of section 65 of the Housing Act, 1957, shall extend and apply as if—

c. 56.

- (a) land acquired by the Corporation under Part II of this Act had been acquired by the Corporation under Part III of the said Act of 1957; and
- (b) any works executed by the Corporation upon such land were executed under powers exercisable by the Corporation by virtue of that Part of the said Act of 1957:

Provided that the said section 65 as so extended and applied shall have effect subject to the following further modifications:—

- (i) in subsection (1) for the words “under this Part of this Act” there shall be substituted the words “under Part II of the Birkenhead Corporation (Mersey Tunnel Approaches) Act 1965” and for the words “the foregoing provisions of this Part of this Act” there shall be substituted the words “the Birkenhead Corporation (Mersey Tunnel Approaches) Act 1965”;
- (ii) in subsection (2) after the word “subsection” there shall be inserted the words “or to execute under the powers conferred by Part III of the Birkenhead Corporation (Mersey Tunnel Approaches) Act 1965 any works near to or likely to affect any apparatus” and before the words “the undertakers may” there shall be inserted the words “in any case where the local authority intend to remove or alter any apparatus”;
- (iii) in subsection (6) for references to the Minister of Housing and Local Government there shall be substituted references to the Minister.

(5) Subsection (4) of this section shall not apply to any apparatus to which section 44 (For protection of electricity and gas undertakers) of this Act applies.

Power to prevent access to or from certain works and marshalling areas.

25. For the purposes of facilitating the movement of vehicular traffic and for securing the safety of the public or otherwise the Corporation may—

- (1) at or near the points on any route where it is shown on the deposited plans that access is intended to be stopped up;

- (2) between the points marked on the deposited plans “ Access to be stopped up between the points marked A and B ” and “ Access to be stopped up between the points marked C and D ”;

erect walls or barriers for the prevention or limitation of access to or from the route or to or from any marshalling area (as the case may be).

26.—(1) The Corporation during and for the purpose of the execution of the works may—

Temporary stoppage of streets.

- (a) temporarily stop up and divert and interfere with any street;
- (b) execute and do all necessary works and things for or in connection with such stopping up or diversion and for keeping any such street open for traffic; and
- (c) for any reasonable time divert the traffic from any such street and prevent persons using the same.

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

- (a) so as unreasonably to obstruct or interfere with the access to or exit from the tunnel or any station, dock, wharf or depot of any railway, dock, canal, inland navigation or passenger road transport undertakers or the Hind Street Gasworks of the North Western Gas Board;
- (b) so as to deprive foot-passengers bona fide going to or from any building or land adjoining the street of reasonable access to the building or land; or
- (c) with respect to any street upon which public service vehicles are authorised by a road service licence to operate unless the Corporation give not less than forty-eight hours' previous notice to the traffic commissioners and to the operators of the public service vehicles so licensed.

(3) Any question or dispute arising under this section shall be determined by the Minister.

(4) The exercise by the Corporation of the powers conferred by this section in relation to any street 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 the street; or
- (b) for the purpose of such maintenance, inspection, repair, renewal or removal to enter upon or break open that street,

PART III

—cont.

Underpinning
of houses
near works.

27. If, in the execution and maintenance of the works, it becomes necessary to underpin or otherwise strengthen any houses, buildings or structures within one hundred feet of the works the Corporation at their own costs and charges may, and if required by the owners or lessees of any such house or building shall, subject as hereinafter provided, underpin or otherwise strengthen the same and the following provisions shall have effect, that is to say:—

c. 18.

- (1) At least fourteen days' notice shall, except in case of emergency, be given to the owners, lessees and occupiers or by the owners or lessees of the house or building so intended or so required to be underpinned or otherwise strengthened:
- (2) Each such notice, if given by the Corporation, shall be served in manner prescribed by section 19 of the Lands Clauses Consolidation Act, 1845, and, if given by the owners or lessees of the premises to be underpinned or strengthened, shall be sent to the town clerk:
- (3) If any owner, lessee or occupier of any such house or building, or the Corporation, as the case may require, shall within seven days after the giving of such notice give a counter-notice that he or they, as the case may be, disputes or dispute the necessity of such underpinning or strengthening, the question of the necessity shall be referred to an arbitrator (in this section referred to as "the referee"):
- (4) The referee shall forthwith upon the application of either party proceed to inspect such house or building and determine the matter referred to him and, in the event of his deciding that—
 - (a) such underpinning or strengthening is necessary, he may and, if so required by such owner, lessee or occupier shall, prescribe the mode in which the same shall be executed, and the Corporation may and shall proceed forthwith so to underpin or strengthen the said house, building or structure;
 - (b) such underpinning or strengthening is not necessary, the Corporation shall not be under any obligation to underpin or strengthen the said house, building or structure:
- (5) The Corporation 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 be made within twelve

months from the date upon which such owner, lessee or occupier either first discovered the loss or damage or by which he ought reasonably to have discovered it (whichever is the earlier):

- (6) (a) In any case in which any house or building shall have been underpinned or strengthened under the powers of this section, the Corporation 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 as in case of dispute between the Corporation on the one hand and the owner, lessee or occupier of the house or building on the other hand shall be settled by arbitration;
- (b) If in any case in which any house or building shall have been underpinned or strengthened by the Corporation, such underpinning or strengthening 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 or maintenance of such work, then, and in every such case, unless such underpinning or strengthening shall have been done in the mode prescribed by the referee, at the requirement of the owner, lessee or occupier of such house or building, the Corporation shall be liable to compensate the owners, lessees and occupiers of such house or building for such injury, provided that the claim for compensation in respect thereof be made within twelve months from the date upon which such owner, lessee or occupier either first discovered the injury or by which he ought reasonably to have discovered it (whichever is the earlier):
- (7) Nothing in this section contained, nor any dealing with any property in pursuance of this section, shall relieve the Corporation from the liability to compensate under section 68 of the Lands Clauses Consolidation Act, c. 18. 1845, or under any other enactment, but any work done or compensation paid under this section shall be taken into account in assessing the compensation payable under the said section 68:

PART III
—cont.

(8) Every case of compensation to be ascertained under this section shall be ascertained according to the provisions of the Lands Clauses Acts.

Power to pump water and use sewers for removing water.

28.—(1) The Corporation may pump any water found by them in the execution of the works and may use for the discharge of any such water any available stream or watercourse or any sewer or drain, and for that purpose may, within the limits of deviation, lay down, take up and alter conduits, pipes and other works and make any convenient connections with any such stream, watercourse, sewer or drain.

(2) Any water discharged into the river Mersey under the powers of this section shall be as free as may reasonably be practicable from any gravel, soil or other solid substance.

No mains or pipes to be laid in certain works.
c. 39.

29.—(1) Notwithstanding anything contained in the Public Utilities Street Works Act, 1950, or in any other enactment no person shall be entitled to enter upon, break up or interfere with Works Nos. 5, 6, 6A, 7, 8, 9 and 13 or the carriageways and footways of the same for the purpose of laying down any main, pipe or wire, or executing any work therein, thereon or thereunder, except with the consent of the Corporation and in accordance with such terms and conditions as the Corporation may determine.

(2) Nothing in this section shall alter, prejudice or affect the rights and powers of the Postmaster General under the provisions of the Telegraph Acts, 1863 to 1962.

Prohibition of persons, vehicles, etc., on reserved areas.

30. Where the Corporation lay out any part of the works or any land adjacent thereto as a reserved area, and being satisfied that it is expedient in the interests of public safety, indicate by notices conspicuously placed on such reserved area or in proximity thereto or by the erection of fences that the use by pedestrians, horses, cattle and vehicles of such reserved area or any part thereof is prohibited, any person (other than a person in the employment of the Corporation or of the Joint Committee in the execution of an act necessary to the proper performance of his duty as such employee) who shall wilfully walk or otherwise proceed or lead, ride or drive any horse or cattle or vehicle on, over or across any such reserved area or part thereof in contravention of the terms of any such notice or in disregard of any such fence, shall be guilty of an offence and liable on summary conviction to a fine not exceeding five pounds.

Period for completion of works.

31. If the works are not completed by the 31st October, 1975, then on the expiration of that period the powers conferred on the Corporation by this Act for constructing the same or otherwise in relation thereto shall cease except as to so much thereof as shall then be completed.

32.—(1) The Corporation may provide areas for the marshalling of vehicles using or intending to use the tunnel on the lands shown hatched on the deposited plans and on any land owned by, leased to or otherwise for the time being under the control of the Corporation and on any street or part thereof adjacent to the said lands subject to the same being acquired or appropriated by the Corporation and to the rights of way thereover being extinguished.

PART III
—cont.

Provision of
marshalling
areas.

(2) For the purposes of section 153 of the Town and Country Planning Act, 1962, the provision of any street or part thereof to form part of a marshalling area shall be deemed to be development to be carried out in accordance with planning permission granted under Part III of the said Act and the Minister may by order authorise the stopping up thereof under and in accordance with the provisions of the said section 153.

c. 38.

(3) Any person who suffers loss by the—

- (a) appropriation of any land being the subsoil of any such street or part thereof referred to in subsection (1) of this section of which he is the owner; or
- (b) extinguishment of any private right;

by virtue of this section shall be entitled to be paid by the Corporation compensation to be determined in case of dispute under and in accordance with the Land Compensation Act, 1961.

c. 33.

(4) For the purposes of Parts V and XI of the Highways Act, 1959, and of the Mersey Tunnel Acts 1925 to 1965 the provision of the said areas shall be deemed to be an improvement of a highway.

c. 25.

(5) No intoxicating liquor shall be sold or supplied in any of the said areas.

33. The Corporation may in relation to any marshalling area—

Powers in
relation to
marshalling
areas.

- (1) lay out, maintain and light the same and provide and maintain refuges, rails and fences;
- (2) provide, install, operate and maintain petroleum filling stations and service stations for the maintenance and repair of vehicles;
- (3) provide and maintain refreshment rooms, waiting-rooms, shelters, offices, information bureaux and displays, lavatories and conveniences and such other facilities as the Corporation think fit;
- (4) provide and maintain shops, kiosks, show or display cases, advertisement sites, automatic pre-paid machines for the sale of goods and other facilities to increase the

PART III
—cont.

amenity of such area and may let the same or may let the sites for the provision thereof on such terms and conditions as the Corporation think fit;

- (5) provide and sell refreshments of all kinds, subject to the provisions of all enactments relating thereto;
- (6) enter into any agreement or arrangement for the provision and sale of refreshments as aforesaid and of newspapers and periodicals;
- (7) grant, upon such terms and conditions, and for such period as they think fit, the right so to provide and sell refreshments, newspapers and periodicals;
- (8) construct, maintain, renew, use and operate machinery, plant and equipment and do all such other acts and things as may be necessary or convenient for the purpose of marshalling vehicles in such area:

Provided that the Corporation shall not themselves—

- (a) manage or operate any petroleum filling station or service station provided under this section;
- (b) provide and sell refreshments of any kind under this section unless they shall have first taken all reasonable steps to secure the provision of such refreshments by some other person.

Application of certain provisions of Part III to marshalling areas.

34.—(1) The provisions of this Part of this Act mentioned in subsection (2) of this section shall apply to any marshalling area and those provisions shall accordingly have effect with any necessary modifications including the substitution of “marshalling areas” for “works”.

(2) The provisions hereinbefore referred to are—

- Section 22 (Power to make subsidiary works);
- Section 26 (Temporary stoppage of streets);
- Section 27 (Underpinning of houses near works);
- Section 28 (Power to pump water and use sewers for removing water);
- Section 30 (Prohibition of persons, vehicles, etc., on reserved areas).

For protection of Postmaster General.

35.—(1) Where in pursuance of the powers conferred by paragraph (e) of subsection (1) of section 22 (Power to make subsidiary works) or section 24 (Stopping up of streets) of this Act the Corporation stop up or divert the whole or any portion

of a street the following provisions of this subsection shall unless otherwise agreed in writing between the Corporation 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 street (in this subsection referred to as "the affected line"), that is to say:—

PART III
—cont.

- (a) The power of the Postmaster General to remove the affected line shall be exercisable notwithstanding the stopping up or diversion of the street or part of the street 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 one month 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 Corporation 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 Corporation 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 one month, 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 Corporation the expense of providing in substitution for the affected line and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the affected line a telegraphic line in such other place as he may reasonably require:
- (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 Corporation 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 street has been stopped up or diverted in pursuance of the powers referred to in subsection (1) of this section the Corporation shall send by post to the Postmaster General a notice informing him of such stopping up or diversion.

PART IV

FINANCE AND MISCELLANEOUS

Power to
borrow.

36.—(1) The Corporation may borrow without the consent of any sanctioning authority, for any of the purposes specified in column (1) of the following table, the sum specified in relation thereto in column (2) of that table:—

(1)	(2)	(3)
Purpose for which money may be borrowed	Amount	Maximum period for repayment of loan
(a) The purchase of lands, easements and rights under the powers of this Act	The sum requisite	Sixty years.
(b) The construction of the works	£2,114,000	Sixty years.
(c) The provision of marshalling areas ...	£148,000	Sixty years.
(d) Provision of housing accommodation for rehousing persons displaced and the exercise of the powers of section 17 (Acquisition of land for relocation of population or industry) and section 18 (Power to develop land for relocation of population or industry) of this Act	The sum requisite	Sixty years.
(e) The costs, charges and expenses of this Act	The sum requisite	Five years.

(2) Every sum borrowed under subsection (1) of this section shall be repaid within such period from the date of borrowing as the Corporation, without the consent of any sanctioning authority, may determine, not exceeding the period specified in relation thereto in column (3) of the foregoing table.

(3) Subject to the provisions of this section, Part IX of the Act of 1933 shall have effect as if money borrowed under this section were borrowed under that Part.

(4) It shall not be lawful to exercise the powers of borrowing conferred by this section, other than the power of borrowing to pay the costs, charges and expenses of this Act, except in compliance with any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act, 1946.

c. 58.

Byelaws.

37.—(1) The Corporation may make and enforce byelaws—

(a) for preventing injury or damage to any marshalling area;

- (b) for regulating the entry of persons to the tunnel approaches or any part thereof and to any marshalling area and for regulating the conduct of all persons while using the tunnel approaches or such area;
- (c) for regulating and controlling the use of the tunnel approaches or any part thereof and of any marshalling area and for the management, regulation, direction and control of traffic of every description using the tunnel approaches or such area with power to fix speed limits for motor vehicles and prohibit the use by particular traffic either generally or during particular hours and to appropriate any portion of the tunnel approaches or such area for the exclusive use of any particular class of vehicle or traffic;
- (d) for securing the safe custody and redelivery or disposal of any property accidentally left in any premises used for the purposes of or in connection with the marshalling areas or in any vehicles (other than public service vehicles as defined by the Road Traffic Act, 1960), and for fixing c. 16. the charges to be made by the Corporation in respect thereof.

PART IV
—cont.

(2) (a) As respects byelaws made under this section the confirming authority for the purpose of section 250 of the Act of 1933 shall be the Minister.

(b) Section 250 of the Act of 1933 in its application to byelaws made under this section shall have effect as if in subsection (6) after the word “confirm” where it first occurs in the subsection the words “with or without modification” were inserted.

(3) A copy of all byelaws made in pursuance of this section shall at all times be exhibited in a conspicuous place on each marshalling area to which the byelaws relate.

38.—(1) Section 26 of the Road Traffic Act, 1960, in its application to Works Nos. 2, 6 and 6A shall be read as if references in subsection (3) to vehicular traffic of any class or description included references to foot-passengers.

Application of section 26 of Road Traffic Act, 1960, to certain works.

(2) Subsection (7) of the said section in its application to the said works shall apply in respect of a foot-passenger who uses the said works in contravention of a traffic regulation order made by virtue of this section and shall accordingly have effect in its application to the said works in that respect as if for the words “a vehicle or causes or permits a vehicle to be used” there were

PART IV
 —cont.

substituted the words “ Works Nos. 2, 6 and 6A authorised by the Birkenhead Corporation (Mersey Tunnel Approaches) Act, 1965 ”:

Provided that any fine under the said subsection in respect of a foot-passenger who uses the said works in contravention of a traffic regulation order shall not exceed five pounds.

Agreements
 with Joint
 Committee.

39.—(1) The Corporation and the Joint Committee may enter into and carry into effect agreements in respect of the maintenance, use and control of the tunnel approaches and of the exercise of the powers of section 33 (Powers in relation to marshalling areas) and section 37 (Byelaws) of this Act and the Joint Committee to the extent and for so long as provided in any such agreement shall have and may exercise all or any of the powers conferred on the Corporation in relation thereto and be subject to all restrictions in respect thereof to which the Corporation are subject.

(2) (a) Any byelaws from time to time made by virtue of this section shall be made under and according to the provisions of sections 250 and 251 of the Act of 1933 as if the Joint Committee were a local authority within the meaning of that Act and the provisions of section 252 of the said Act shall apply to such byelaws.

(b) For the purposes of the said sections 250 to 252 in their application to this section, the Minister shall be the confirming authority.

(c) Section 250 of the Act of 1933 in its application to byelaws made by virtue of this section shall have effect as if in subsection (6) after the word “ confirm ” where it first occurs in the subsection the words “ with or without modification ” were inserted.

As to former
 burial
 ground.

40.—(1) As from the date on which the Corporation acquire under the powers of this Act any part of the disused burial ground in the borough forming part of the churchyard of the former Presbyterian Church of St. Andrew and numbered 28 on the deposited plans that part of the said burial ground shall be freed and discharged from all trusts, uses, obligations, disabilities and restrictions whatsoever which immediately before the passing of this Act attached to the said part of the burial ground and from all rights and interests of any person who is a personal representative or relative of any deceased person whose remains are interred in the said part of the burial ground and from all other trusts, uses, obligations, disabilities and restrictions whatsoever which immediately before the passing of this Act attached thereto by reason of the said burial ground or any part thereof being a disused burial ground or otherwise.

(2) Notwithstanding anything contained in any enactment but subject to the provisions of this Act, it shall be lawful as from the date on which the Corporation acquire under the powers of this Act any part of the burial ground referred to in subsection (1) of this section to use, deal with or dispose of that part of the said burial ground for the purposes of or in connection with the works or for the erection of any building or for any other purpose in like manner as if no part thereof had ever been used or set apart for the purpose of burial of human remains.

PART IV
—cont.

(3) Before the Corporation carry out under the powers of this Act any work on any part of the burial ground referred to in subsection (1) of this section they shall remove or cause to be removed the remains of all deceased persons interred in such part:

Provided that if it appears to the Secretary of State that compliance with any of the requirements of this subsection is in all the circumstances unnecessary in relation to all or any of the remains he may dispense (on such conditions, if any, if he thinks fit) with compliance with those requirements in relation to those remains.

(4) (a) Before proceeding to remove any such remains the Corporation shall give notice of their intention so to do by publishing a notice in manner provided in paragraph (b) of this subsection in at least two newspapers circulating in the borough and shall display a like notice in a conspicuous place in the part of the burial ground referred to in subsection (1) of this section, and such notice shall have embodied in it the substance of subsections (5) to (8) and (10) of this section.

(b) The notice referred to in paragraph (a) of this subsection shall be published in each of four successive weeks by publication in at least one newspaper in the first and third of those weeks and in at least one other newspaper in the second and fourth of those weeks.

(5) At any time within two months after the first publication of such notice any person who is a personal representative or relative of any deceased person whose remains are interred in the part of the burial ground referred to in subsection (1) of this section may give notice in writing to the Corporation of his intention to undertake the removal of such remains, and thereupon he shall be at liberty to cause such remains to be removed to and reinterred in any other burial ground or cemetery in which burials may legally take place but in the case of a churchyard only with the consent of the incumbent of the benefice concerned, or to be removed to and cremated in any crematorium.

PART IV
—cont.

(6) If any person giving such notice as aforesaid fails to satisfy the Corporation that he is such personal representative or relative as he claims to be, the question shall be determined on the application of either party in a summary manner by the Birkenhead County Court who shall have power to make an order specifying who shall remove the remains and as to the payment of the costs of the application.

(7) The expense of a removal and reinterment or cremation (not exceeding, in respect of remains removed from any one grave together with any monument or tombstone relating thereto, the sum of £50) shall be defrayed by the Corporation, such sum to be apportioned, if necessary, equally according to the number of deceased persons whose remains are in the grave.

(8) If—

- (a) within the aforesaid period of two months no such notice as aforesaid shall have been given to the Corporation in respect of the remains in any grave; or
- (b) within two months after such notice has been given no application has been made under subsection (6) of this section and the person who gave the notice fails to remove the remains; or
- (c) within two months after any order is made by the said county court under the said subsection the person, not being the Corporation, specified in the order fails to remove the remains;

the Corporation may cause the remains of the deceased person to be removed and reinterred in such other burial ground or cemetery in which burials may legally take place and which the Corporation think suitable for the purpose, or cremated in such crematorium as the Corporation think suitable for the purpose, but in the case of reinterment in a churchyard the previous consent of the incumbent of the benefice concerned shall also be required.

(9) Upon the reinterment or cremation of any remains under this section a certificate of reinterment or cremation shall be sent to the Registrar General by the Corporation giving the date of reinterment or cremation and identifying the place from which the remains were removed and the place in which they were reinterred or cremated.

(10) The removal of the remains of any deceased person under this section shall be carried out under the supervision and to the satisfaction of the medical officer of health of the borough.

41. Section 105 (Mersey Tunnel Joint Committee may appoint special constables for Mersey Tunnel) of the Liverpool Corporation Act, 1936, shall have effect as if—

PART IV
—cont.

Amendment of
section 105 of
Liverpool
Corporation
Act, 1936.
c. cxxii.

(1) after the words “the Mersey Tunnel Acts 1925 to 1965” there were inserted the words “and the tunnel approaches and the marshalling areas authorised by the Birkenhead Corporation (Mersey Tunnel Approaches) Act 1965”;

(2) the following proviso was added thereto:—

“Provided that no officer or servant shall be entitled to act as a special constable in the tunnel approaches and marshalling areas authorised by the Birkenhead Corporation (Mersey Tunnel Approaches) Act 1965 except to the extent and for so long as may be provided in an agreement entered into in pursuance of section 39 (Agreements with Joint Committee) of that Act.”

42. For the protection of the British Railways Board (in this section referred to as “the board”) the following provisions shall unless otherwise agreed in writing between the Corporation and the board apply and have effect:—

For protection
of British
Railways
Board.

(1) In this section—

“railway property” means any railway of the board and any works connected therewith for the maintenance or operation of which the board are responsible and includes any lands held or used by the board for the purposes of such railway or works;

“the specified works” means so much of the works as may be situated upon, across, under or over or within 50 feet of railway property and includes the construction, maintenance (other than the maintenance of a highway) and renewal of such works;

“the engineer” means an engineer to be appointed by the board;

“plans” includes sections, particulars and specifications:

(2) The Corporation shall not under the powers of this Act (except for the lands in the borough numbered 68, 74, 266 and 329A on the deposited plans) acquire compulsorily any railway property, but they may in accordance with the provisions of section 12 (Power to acquire easements only) of this Act acquire such easements and rights in any railway property delineated on the deposited plans as they may reasonably require for the purposes of the exercise of the powers of this Act:

PART IV
—cont.

(3) Notwithstanding the provisions of section 21 (Power to deviate) of this Act the Corporation shall not where Work No. 2 is over or adjacent to the Monks Ferry or Woodside railways of the board construct such work so as prejudicially to affect the structure of the tunnels forming part of such railways:

(4) The Corporation shall before commencing the specified works (other than works of maintenance or repair) furnish to the board proper and sufficient plans thereof for the reasonable approval of the engineer and shall not commence the specified works until plans thereof have been approved in writing by the engineer or settled by arbitration:

Provided that if within twenty-eight days after such plans have been furnished to the board the engineer shall not have intimated his disapproval thereof and the grounds of his disapproval he shall be deemed to have approved the same:

(5) If within twenty-eight days after such plans have been furnished to the board the board shall give notice to the Corporation that in consequence of the nature of any part of the specified works it is reasonably necessary that the board should themselves construct such part of the specified works then if the Corporation desire such part of the specified works to be constructed the board shall construct the same with all reasonable dispatch on behalf of and to the reasonable satisfaction of the Corporation in accordance with the plans approved or deemed to be approved or settled as aforesaid:

Provided that in the event of the board not constructing or completing such part of the specified works with reasonable dispatch and to the reasonable satisfaction of the Corporation the Corporation may after giving twenty-eight days' notice to the engineer themselves construct or complete such part of the specified works:

(6) Upon signifying his approval or disapproval of the said plans the engineer may specify any protective works whether temporary or permanent which in his opinion should be carried out before the commencement of the specified works in order reasonably to ensure the safety or stability of railway property and such protective works as may be reasonably necessary for those purposes shall be constructed by the Corporation or by the board if the board so elect with all reasonable dispatch and the Corporation shall not commence the construction

of the specified works until the engineer shall have notified the Corporation that such protective works have been completed:

PART IV
—cont.

Provided that in the event of the board not constructing or completing such protective works as they have elected to construct with reasonable dispatch the Corporation may after giving twenty-eight days' notice to the engineer themselves construct or complete such works and on the completion thereof may commence the construction of the specified works:

- (7) The Corporation shall give to the engineer twenty-eight days' notice of their intention to commence the specified works and except in emergency (when they shall give such notice as may be reasonably practicable) also of their intention to carry out any works for the repair or maintenance of the specified works:
- (8) The specified works shall when commenced be carried out with all reasonable dispatch in accordance with the plans approved or deemed to have been approved or settled as aforesaid and under the supervision (if given) and to the reasonable satisfaction of the engineer and in such manner as to cause as little damage to railway property as may be and so far as is reasonably practicable so as not to interfere with or obstruct the free uninterrupted and safe user of the railway or the traffic thereon and the use by passengers of railway property and if any damage to railway property or any such interference or obstruction shall be caused or take place by reason of the specified works the Corporation shall notwithstanding any such approval as aforesaid forthwith make good such damage and pay to the board all reasonable expenses to which they may be put and reasonable compensation for any loss which they may sustain by reason of any such damage, interference or obstruction other than damage, interference or obstruction caused by the neglect or default of the board their servants or agents:
- (9) The Corporation shall at all times afford reasonable facilities to the engineer for access to the specified works during their construction and shall supply him with all such information as he may reasonably require with regard to such works or the method of construction thereof:
- (10) The board shall at all times afford reasonable facilities to the Corporation and their agents for access to any works carried out by the board under this section during

PART IV
—cont.

their construction and shall supply the Corporation with such information as they may reasonably require with regard to such works or the method of construction thereof:

- (11) If any alterations or additions either permanent or temporary to railway property shall be reasonably necessary during the construction of the specified works or during the period of twelve months after completion thereof in consequence of the construction of the specified works such alterations and additions may be effected by the board after not less than twenty-eight days' notice (or in case of emergency such notice as may be reasonably practicable) has been given to the Corporation and the Corporation shall pay to the board the reasonable cost thereof including in respect of permanent alterations and additions a capitalised sum representing the increased or additional cost of maintaining, working and when necessary renewing any such alterations or additions:

Provided that if the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions, a capitalised sum, representing such saving, may be set off against any sum payable by the Corporation to the board under this section:

- (12) The Corporation shall repay to the board all costs, charges and expenses reasonably incurred by the board—

(a) in constructing any part of the specified works on behalf of the Corporation as provided by paragraph (5) of this section or in constructing any protective works under the provisions of paragraph (6) of this section including in respect of any permanent protective works a capitalised sum representing the increased or additional cost of maintaining and renewing such works:

Provided that if the cost of maintaining, working or renewing railway property is reduced in consequence of such protective works, a capitalised sum representing such saving may be set off against any sum payable by the Corporation to the board under this section;

(b) in respect of the employment of any inspectors, signalmen, watchmen and other persons whom it shall be reasonably necessary to appoint for inspecting, watching, lighting and signalling railway property and for preventing as far as may be all interference,

obstruction, danger or accident arising from the construction, maintenance, repair or failure of the specified works;

PART IV
—cont.

(c) in respect of any special traffic working resulting from any speed restrictions which are necessary as a result of the construction, maintenance, repair or failure of the specified works and which may in the opinion of the engineer be required to be imposed or from the substitution or diversion of services which may be necessary for the same reason;

(d) in respect of any additional temporary lighting of railway property in the vicinity of the specified works being lighting made reasonably necessary as a result of the specified works or the failure thereof:

(13) If at any time after the completion of the specified works not being works vested in the board the board shall give notice to the Corporation informing them that the state of repair of the specified works appears to be such as to affect prejudicially railway property, the Corporation shall, within twenty-eight days of the receipt of such notice, or in case of emergency immediately on receipt of such notice, take such steps (if any) as may be reasonably necessary to put the specified works in such state of repair as not to affect prejudicially railway property and, if and whenever the Corporation fail to do so, the board may make and do in and upon the lands of the board or of the Corporation all such works and things as shall be requisite to put the specified works in such state of repair as aforesaid and the costs and expenses reasonably incurred by the board in doing such works as were reasonably necessary for such purpose shall be repaid to them by the Corporation:

(14) All temporary structures, erections, works, apparatus and appliances erected or placed by the Corporation under the powers of section 23 (Power to execute temporary works on railways) of this Act upon, over or under any railway of the board shall as soon as reasonably practicable be removed by the Corporation to the reasonable satisfaction of the engineer and in such a way as to cause as little damage to railway property and as little interference with, or interruption to, the traffic on the railways of the board as may be and if any damage to railway property or such interference, delay or interruption shall be caused by any such failure to remove any such temporary structures, erections, works, apparatus or appliances the Corporation shall forthwith make good such damage and pay

PART IV
—cont.

to the board the reasonable costs and expenses to which they may be put and reasonable compensation for any loss which they may sustain by reason of such damage, interference, delay or interruption:

- (15) Any additional expense which the board may reasonably incur, after giving twenty-eight days' notice to the Corporation, in altering, reconstructing or maintaining railway property in pursuance of any powers existing at the passing of this Act by reason of the existence of the specified works shall be repaid by the Corporation to the board:
- (16) The Corporation shall be responsible for and make good to the board all costs, charges, damages and expenses not otherwise provided for in this section which may be occasioned to or reasonably incurred by the board—
- (a) by reason of the specified works or the failure thereof; or
- (b) by reason of any act or omission of the Corporation or of any persons in their employ or of their contractors or others whilst engaged upon the specified works;

and the Corporation shall effectively indemnify and hold harmless the board from and against all claims and demands arising out of or in connection with the specified works or any such failure, act or omission as aforesaid and the fact that any act or thing may have been done by the board on behalf of the Corporation or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not (if it was done without negligence on the part of the board or of any person in their employ or of their contractors or agents) excuse the Corporation from any liability under the provisions of this section:

Provided that the board shall give to the Corporation reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Corporation:

- (17) Any difference arising between the Corporation and the board under this section (other than a difference as to the meaning or construction of this section) shall be referred to and settled by arbitration.

43.—For the protection of the Joint Committee the following provisions shall, unless otherwise agreed in writing between the Corporation and the Joint Committee, apply and have effect:—

PART IV
—cont.

For protection
of Joint
Committee.

(1) Notwithstanding anything in this Act or shown on the deposited plans and sections the Corporation shall not under the powers of this Act acquire compulsorily any lands of the Joint Committee, but they may in accordance with the provisions of section 12 (Power to acquire easements only) of this Act acquire such easements and rights in the said lands as they may reasonably require for the purposes of the works:

(2) (a) Before commencing the construction of the works, the Corporation shall submit plans, sections, particulars and specifications thereof to the Joint Committee for their reasonable approval and shall not commence the construction of the works until the plans have been approved by the Joint Committee, or, in the case of difference, until they have been settled by arbitration:

Provided that if the Joint Committee do not within twenty-eight days after the receipt of any such plans, sections, particulars and specifications, signify to the Corporation their disapproval thereof and the grounds for their disapproval, they shall be deemed to have approved thereof:

(b) Not less than twenty-one days before commencing any work of maintenance or renewal of the works (other than a minor work of maintenance) the Corporation shall, except in case of emergency, submit to the Joint Committee for their information notice of their intention to commence the work and a description thereof:

(3) Upon signifying their approval or disapproval of the said plans, sections, particulars and specifications, the Joint Committee may specify any protective works or make any reasonable requirements as to the manner of construction of the works which in their opinion should be constructed or complied with by the Corporation during the construction of the works for ensuring the safety and safe and efficient use of the tunnel and such of the protective works as specified and the requirements so made as may be reasonably necessary for the purpose aforesaid shall be constructed by or complied with by the Corporation to the reasonable satisfaction of the Joint Committee:

(4) (a) Subject to the provisions of this section the works shall not be constructed except in accordance with the

PART IV
—cont.

plans, sections, particulars and specifications approved or deemed to be approved by the Joint Committee as aforesaid or settled by arbitration;

- (b) The Corporation shall at all reasonable times afford to the duly authorised representatives of the Joint Committee access to the works for the purposes of inspection:
- (5) In the exercise of the powers conferred by this Act the Corporation shall before removing or demolishing any structure or erection of the Joint Committee provide a proper substitute to the reasonable satisfaction of the Joint Committee:
- (6) The Corporation shall not without the consent of the Joint Committee, which shall not be unreasonably withheld, use or interfere with any sewer or drain of the Joint Committee under the powers of section 28 (Power to pump water and use sewers for removing water) of this Act:
- (7) Any difference arising between the Corporation and the Joint Committee under this section (other than a difference as to the construction of this section) shall be settled by arbitration.

For protection of electricity and gas undertakers.

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

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

“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 Central Electricity Generating Board or the Merseyside and North Wales Electricity Board, electric lines or works (as respectively defined in the Electric Lighting Act, 1882) belonging to or lawfully laid or erected by either of those boards;

(b) in relation to the North Western Gas Board, mains, pipes, valves, siphons, stopcocks, pillars or other apparatus belonging to or erected or maintained by that board;

and includes any building, structure or works constructed for the lodging therein of apparatus;

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

“ position ” includes depth;

“ the undertakers ” means the Central Electricity Generating Board, the Merseyside and North Wales Electricity Board, the North Western Gas Board or any of them, as the case may be:

- (2) Notwithstanding anything in this Act or shown on the deposited plans the Corporation shall not acquire any apparatus under the powers of this Act otherwise than by agreement:
- (3) Notwithstanding anything in this Act no apparatus shall be removed from any land or street in which it is situated, nor shall any right of the undertakers to use, maintain, repair, renew or inspect any apparatus in that land or street be extinguished, until any necessary adequate alternative apparatus has been provided and is in operation to the reasonable satisfaction of the undertakers:
- (4) (a) If the Corporation, for the purpose of or in connection with the construction of any of the works, require the removal of any apparatus, they shall give to the undertakers written notice of such requirement together with a plan and section of the work proposed and of the proposed position of the alternative apparatus (if any) to be provided ;
(b) If the Corporation require the undertakers to remove any apparatus permanently from any land or street, or if in consequence of the exercise of the powers of this Act the undertakers shall reasonably require the permanent removal of any apparatus, the Corporation shall if practicable afford to the undertakers the necessary facilities and rights for the laying down or erection in other lands of the Corporation of adequate alternative apparatus 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 laid down or erected elsewhere than in other lands of the Corporation, and the Corporation 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 laid down or erected, the undertakers shall, on receipt of a written notice to that effect from the Corporation, forthwith use their best endeavours to obtain the necessary facilities and rights;

PART IV
—cont.

- (c) Any alternative apparatus to be laid down or erected in lands of the Corporation in pursuance of this paragraph shall be laid down or erected in such manner and in such line and position as may be agreed between the undertakers and the Corporation or, in default of agreement, settled by arbitration;
- (d) The undertakers shall, after the line and position of any necessary alternative apparatus and manner in which the alternative apparatus shall be laid down or erected 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 sub-paragraph (b) of this paragraph, proceed with all reasonable dispatch to lay down or erect and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the Corporation to be removed under the provisions of this section and in default the Corporation may remove the apparatus;
- (e) Notwithstanding anything in the preceding provisions of this paragraph, if the Corporation 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 Corporation, such work in lieu of being executed by the undertakers shall be executed by the Corporation with all reasonable dispatch under the superintendence (if given) and to the reasonable satisfaction of the undertakers:

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

- (f) Where in accordance with the provisions of this paragraph the Corporation afford to the undertakers facilities and rights in lands of the Corporation for the laying down or erection, maintenance, repair, renewal and inspection 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 Corporation and the undertakers or, in default of agreement, determined by arbitration:

Provided that—

PART IV
—cont.

(i) in determining such terms and conditions as aforesaid in respect of alternative apparatus to be laid down or erected in or through any of the works the arbitrator shall—

(A) give effect to all reasonable requirements of the Corporation for ensuring the safety and efficient use of the works; and

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

(ii) if the facilities and rights to be afforded by the Corporation 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 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 Corporation 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:

- (5) (a) Not less than twenty-eight days before commencing to execute any of the works which is near to or is likely to affect any apparatus, the removal of which has not been required by the Corporation under sub-paragraphs (a) and (b) of paragraph (4) of this section, the Corporation shall submit to the undertakers a plan, section and particulars of the work to be executed;
- (b) Such work shall be executed substantially in accordance with the plan, section and particulars 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 particulars shall, in consequence of the work proposed by the Corporation, reasonably require the removal of

PART IV
—cont.

any apparatus and give written notice to the Corporation 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 Corporation under sub-paragraphs (a) and (b) of paragraph (4) of this section; and

(ii) nothing in this sub-paragraph shall preclude the Corporation from submitting at any time, or from time to time, but except in case of emergency not less than twenty-eight days before commencing the execution of any such work, a new plan, section and particulars in lieu of the plan, section and particulars previously submitted and thereupon the provisions of this paragraph shall apply to and in respect of such new plan, section and particulars;

(c) The Corporation shall not be required to comply with sub-paragraph (a) of this paragraph in 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 particulars 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:

(6) The Corporation 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, laying down, erection or placing of any new apparatus rendered necessary by reason or in consequence of the construction of any of the works or under the provisions of paragraph (4) of this section or of that paragraph as applied by sub-paragraph (i) of the proviso to paragraph (5) of this section less the value of any apparatus removed in pursuance of the provisions of this section (such value being calculated after removal);

(b) the cutting off of any apparatus from any other apparatus;

(c) the superintending or watching and inspecting under the provisions of paragraph (5) of this section of any works executed by the Corporation; and

(d) any other work or thing rendered reasonably necessary in consequence of the operations referred to in this paragraph:

Provided that—

PART IV
—cont.

(i) if the undertakers provide, lay down, erect or place apparatus of better type or of greater capacity or (otherwise than at the request of the Corporation or in accordance with the award of an arbitrator) at a greater depth than the existing apparatus, the undertakers shall bear such proportion of the cost of such provision, laying down, erection or placing as represents the amount by which such cost exceeds the cost which would have been incurred if the type or capacity or depth of the apparatus so provided, laid down, erected or placed had been the same as that of the existing apparatus;

(ii) any amount payable by the Corporation to the undertakers under this paragraph in respect of the provision, laying down, erection or placing of new apparatus in substitution for apparatus provided, laid down, erected or placed more than seven-and-a-half years earlier, shall be reduced by the amount of any financial benefit which may be derived by the undertakers from the deferment of the time for the renewal of the apparatus in the ordinary course:

- (7) Where by reason or in consequence of the exercise of the powers of this Act any apparatus for which alternative apparatus is not substituted under this section is rendered derelict or unnecessary, the Corporation shall pay to the undertakers the then value of such apparatus, which shall thereupon become the property of the Corporation, and the reasonable cost of and incidental to the cutting off of the apparatus from any other 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:
- (8) Notwithstanding the temporary stopping up or diversion of any street under the powers of section 26 (Temporary stoppage of streets) of this Act, the undertakers shall be at liberty to execute and do all such works and things in, upon or under any such street as may be reasonably necessary for inspecting, repairing, maintaining, renewing, replacing or removing any apparatus which at the time of the stopping up or diversion was in that street:
- (9) The consent of the Corporation under section 29 (No mains or pipes to be laid in certain works) of this Act—
- (a) to the entering upon or breaking up of or interfering with the works referred to in that section

PART IV
—cont.

or the carriageways or footways thereof for the purpose of inspecting, maintaining, adjusting, repairing, altering or renewing or the changing of position or the removal of any apparatus laid therein with the consent of the Corporation or as the result of the award of an arbitrator shall not be withheld but the undertakers shall give effect to all reasonable requirements of the Corporation for ensuring the safety and efficient use of the said works; and

(b) to the entering upon, breaking up or interfering with so much of the works referred to in that section or the carriageways or footways thereof as is not substantially above the level of the adjoining land for the purpose of laying or placing new apparatus in such part of the said works shall not be unreasonably withheld:

Provided that the Corporation shall not as a condition of any consent which may be given under the said section 29 in respect of such apparatus as is referred to in this paragraph require the payment of any rent or other valuable consideration:

- (10) Notwithstanding anything contained in section 30 (Prohibition of persons, vehicles, etc., on reserved areas) of this Act, in the application of that section either to any of the works or to any marshalling area, the undertakers, their officers, engineers, workmen and contractors shall be at liberty, at all times, to enter upon the reserved area for the purpose of inspecting, repairing, maintaining, renewing or removing any apparatus situated in, or adjoining, the reserved area:
- (11) The powers of the following sections of this Act shall be so exercised as not to obstruct or render less convenient, so far as is reasonably practicable, the access to any apparatus:—

Section 25 (Power to prevent access to or from certain works and marshalling areas);

Section 27 (Underpinning of houses near works);

Section 33 (Powers in relation to marshalling areas);

So much of section 34 (Application of certain provisions of Part III to marshalling areas) as applies the said section 27:

- (12) If in consequence of the exercise of the powers of this Act the access to any apparatus is materially obstructed, the Corporation shall provide an alternative means of access to such apparatus:

(13) If by reason or in consequence of any of the works or any subsidence resulting therefrom any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of the undertakers or any interruption in the supply of electricity or gas shall be caused, the Corporation shall—

(a) make reasonable compensation to the undertakers for any loss sustained or additional expense incurred 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:

Provided that—

(i) nothing in this paragraph shall impose any liability on the Corporation 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 Corporation reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent in writing of the Corporation:

(14) (a) Any difference which may arise between the Corporation 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 Corporation to execute any temporary or other works so as to avoid as far as may be reasonably possible interference with any purpose for which the apparatus is used.

45. For the further protection of the North Western Gas Board (in this section referred to as “the gas board”) the following provisions shall, unless otherwise agreed in writing between the Corporation and the gas board, apply and have effect:—

For further protection of North Western Gas Board.

(1) In this section “apparatus” means mains, pipes, valves, siphons, stopcocks, pillars or other apparatus belonging

PART IV
—cont.

to or erected or maintained by the gas board and includes any building, structure or works constructed for the lodging therein of apparatus:

- (2) (a) Not less than twenty-eight days before providing a marshalling area the Corporation shall submit to the gas board a plan showing any such marshalling area which is near to or the provision or use of which is likely to affect any apparatus;
- (b) Any such marshalling area provided by the Corporation shall be provided substantially in accordance with the plan submitted as aforesaid and in accordance with such reasonable requirements as may be made by the gas board within fourteen days after the submission to them of any such plan for the execution of works for the protection, strengthening or alteration of the apparatus, or for securing access thereto, and the gas board shall be entitled by their officer to watch and inspect the execution of work (if any) so required;
- (c) Nothing in this paragraph shall preclude the Corporation from submitting at any time, or from time to time, but except in case of emergency not less than twenty-eight days before providing any such marshalling area, a new plan in lieu of the plan previously submitted and thereupon the provisions of this paragraph shall apply in respect of such new plan:
- (3) The Corporation shall repay to the gas board the reasonable expenses incurred by the gas board in or in connection with the watching and inspecting under the provisions of paragraph (2) of this section of any work executed by the Corporation:
- (4) (a) Any difference which may arise between the Corporation and the gas board 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 gas board may be under in respect of any apparatus and may, if he thinks fit, require the Corporation to execute any temporary or other works so as to avoid as far as may be reasonably possible interference with any purpose for which the apparatus is used.

Local
inquiries.

46.—(1) Any Minister of the Crown may cause such local inquiries to be held as he may consider necessary for the purpose of any of his functions under this Act.

(2) Subsections (2) to (5) of section 290 of the Act of 1933, shall apply in relation to any such inquiry; and for that purpose the definition of "department" in subsection (8) of that section shall include any Minister of the Crown having functions under this Act as well as the Ministers therein mentioned.

PART IV
—cont.

(3) In this section "Minister of the Crown" has the same meaning as in the Ministers of the Crown (Transfer of Functions) c. 31. Act, 1946.

47.—(1) 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.

(2) (a) In any case where any plans have been submitted for approval to more than one protected authority such plans shall be deemed not to have been approved until approved by all the protected authorities concerned or settled by arbitration.

(b) If any of such protected authorities disapprove such plans the other protected authorities shall be entitled to be heard in any arbitration proceedings which may take place as a result of such disapproval and the plans as settled by such arbitration shall be deemed to have been approved by all the protected authorities (whether or not they have been heard in the proceedings).

(c) In this subsection—

"plans" includes sections, particulars and specifications;

"protected authority" means any body to whom plans are required to be submitted for approval under any provision in this Act.

48. Sections 271, 283, 288, 296, 304 and 328 of the Public Health Act, 1936, shall have effect as if references therein to that Act included a reference to this Act.

Application
of provisions
of Public
Health Act,
1936.
c. 49.

49. Section 265 of the Public Health Act, 1875, shall apply to the Corporation as if any reference in that section to the said Act of 1875 included a reference to this Act, and as if any reference in that section to a member of a local authority included a reference to a member of a committee of a local authority.

Protection of
members and
officers of
Corporation
from personal
liability.
c. 55.

PART IV
—cont.

Saving for
town and
country
planning.

c. 38.

Costs of Act.

50. 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.

51. The costs, charges and expenses preliminary to and of and incidental to the preparing, applying for, obtaining and passing of this Act shall be paid by the Corporation.

SCHEDULE

Section 24

STREETS TO BE STOPPED UP WHOLLY OR IN PART

PART I

Abbey Street.
Albert Street.
Argyle Street.
Back Camden Street.
Back Oliver Street.
Borough Road.
Borough Place.
Conway Street.
Cross Street.
Egerton Street.
Getley Street.
Grange Road.
Grange Street.
Hamilton Street.
Haymarket.
Leicester Street.
Lowwood Grove.
Market Place South.
Market Street.
Monk Street.
Oliver Street.
Pilgrim Street.
Rodney Street.
St. Mary's Gate.
Thomas Street.
Walton Street.
Waterloo Place.
York Street.
Rear of Nos. 18-22 Albert Street.
Between Nos. 19 and 20 Albert Street.
Between Nos. 91 and 93 Borough Road.
Between Nos. 65 and 67 Borough Road.
Adjacent to No. 4 Rodney Street.
From Haymarket to rear of No. 13 Oliver Street.
Adjacent to No. 33 Borough Road.
To rear of Nos. 15-33 Borough Road.
Rear of Nos. 12-22 Thomas Street.
Rear of Nos. 24-46 Jackson Street.
Rear of Nos. 8-26 Egerton Street.
Adjacent to No. 8 Egerton Street.
Rear of Nos. 28-70 Egerton Street.
Adjacent to Nos. 68 and 70 Egerton Street.
Adjacent to Nos. 29 and 31 Egerton Street.
Rear of Nos. 158-166 Chester Street.
Adjacent to Nos. 4 and 6 Getley Street.
Rear of Nos. 3-25 Getley Street.

SCH.
—cont.

Adjacent to Nos. 3-7 Getley Street.
Rear of Nos. 57-91 Egerton Street.
Adjacent to Nos. 57-59 Egerton Street.
Adjacent to Nos. 89 and 91 Egerton Street.
From Waterloo Place to rear of No. 91 Egerton Street.

PART II

Argyle Street.
Borough Road.
Borough Place.
Claughton Road.
Conway Street.
Egerton Street.
Getley Street.
Grange Road.
Haymarket.
Oliver Street.
Thomas Street.
Between Nos. 91 and 93 Borough Road.
Between Nos. 65 and 67 Borough Road.
From Haymarket to rear of No. 13 Oliver Street.
Adjacent to No. 33 Borough Road.
To rear of Nos. 15-33 Borough Road.
Rear of Nos. 12-22 Thomas Street.
Rear of Nos. 24-46 Jackson Street.
Rear of Nos. 28-70 Egerton Street.
Rear of Nos. 158-166 Chester Street.
Rear of Nos. 57-91 Egerton Street.
Adjacent to Nos. 57-59 Egerton Street.
Adjacent to Nos. 89 and 91 Egerton Street.
From Waterloo Place to rear of No. 91 Egerton Street
Rear of Nos. 3-25 Getley Street.
Adjacent to Nos. 3-7 Getley Street.

PRINTED BY THE SOLICITORS' LAW STATIONERY SOCIETY, LTD., FOR
SIR PERCY FAULKNER, K.B.E., C.B.
Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament
LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

Price 3s. 6d. net

PRINTED IN ENGLAND



Birkenhead Corporation (Mersey Tunnel Approaches) Act 1965

CHAPTER xxxviii

ARRANGEMENT OF SECTIONS

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3. Interpretation.
4. Incorporation of Acts.

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LANDS

5. Power to acquire lands.
6. Correction of errors in deposited plans and book of reference.
7. Acquisition of part only of certain properties.
8. Power to expedite entry.
9. Power to enter for survey or valuation.
10. Disregard of recent improvements and interests.
11. Extinction of private rights of way.
12. Power to acquire easements only.
13. Grant of easements by persons under disability.
14. Provision of substituted sites.
15. Power to reinstate owners or occupiers of property.
16. Agreements with adjoining owners.
17. Acquisition of land for relocation of population or industry.

Section

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19. As to exercise of certain provisions of Part II of this Act.

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40. As to former burial ground.
41. Amendment of section 105 of Liverpool Corporation Act, 1936.
42. For protection of British Railways Board.
43. For protection of Joint Committee.
44. For protection of electricity and gas undertakers.
45. For further protection of North Western Gas Board.
46. Local inquiries.
47. Arbitration.
48. Application of provisions of Public Health Act, 1936.
49. Protection of members and officers of Corporation from personal liability.
50. Saving for town and country planning.
51. Costs of Act.

SCHEDULE.—Streets to be stopped up wholly or in part.