



## CHAPTER xl.

An Act to authorise the construction of tunnels for vehicular and pedestrian traffic under the river Tyne between Wallsend in the county of Northumberland and Jarrow in the county of Durham and approaches to such tunnels and for other purposes.

[26th July 1946.]

**W**HEREAS the construction of tunnels for vehicular and pedestrian traffic under the river Tyne between the borough of Wallsend in the county of Northumberland and the borough of Jarrow in the county of Durham and approaches to such tunnels would be of public and local advantage and it is expedient that the county councils of the administrative counties of Northumberland and Durham should be empowered to construct the tunnels and other works by this Act authorised:

And whereas the Minister of Transport has with the approval of the Treasury determined to make contributions out of the Road Fund towards the cost of the works authorised by this Act:

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

And whereas estimates have been prepared of the cost of constructing the works by this Act authorised (including the amount necessary for the purchase of lands and easements required therefor) and such estimates are as follows:—

The purchase of land and easements ...	£ 317,000
The construction of the tunnels authorised by this Act ... ..	2,720,000
The construction of the street works authorised by this Act ... ..	543,000
The diversion of the river Don authorised by this Act ... ..	20,000

And whereas the several works included in such estimates are permanent works and it is expedient that the cost thereof should be spread over a term of years:

And whereas plans and sections showing the lines and levels of the works authorised by this Act and a book of reference to the plans containing the names of the owners or reputed owners and lessees or reputed lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the clerk of the county council of the administrative county of Northumberland and with the clerk of the county council of the administrative county of Durham which plans sections and book of reference are in this Act respectively referred to as the deposited plans sections and book of reference:

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

And whereas in relation to the promotion of the Bill for this Act the Councils have observed the requirements of Part XIII of the Local Government Act 1933:

23 & 24 Geo. 5.  
c. 51.

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

## PART I.

### PRELIMINARY.

- Short title. 1. This Act may be cited as the Tyne Tunnel Act 1946.
- Division of Act into Parts. 2. This Act is divided into Parts as follows:—  
Part I.—Preliminary.  
Part II.—Works and lands.  
Part III.—Finance.  
Part IV.—Miscellaneous.
- Interpretation. 3. In this Act unless the subject or context otherwise requires the several words and expressions to which by the Acts incorporated with this Act meanings are assigned shall have in relation to the relative subject matters the same respective meanings and the expressions—  
“ the Northumberland Council ” means the county council of the administrative county of Northumberland;  
“ the Durham Council ” means the county council of the administrative county of Durham;

“ the Councils ” means the Northumberland Council and the Durham Council and includes either of the said Councils;

“ the Wallsend Corporation ” means the mayor aldermen and burgesses of the borough of Wallsend;

“ the Tynemouth Corporation ” means the mayor aldermen and burgesses of the borough of Tynemouth;

“ the Jarrow Corporation ” means the mayor aldermen and burgesses of the borough of Jarrow;

“ the Minister ” means the Minister of Transport;

“ the tunnel ” means Works Nos. 1 1A 2 2A 3 4 5 and 5A by this Act authorised;

“ the Lands Clauses Acts ” means those Acts as modified by the Acquisition of Land (Assessment of Compensation) Act 1919 by Part II of the Town and Country Planning Act 1944 and by this Act;

9 &amp; 10 Geo. 5.

c. 57.

7 &amp; 8 Geo. 6.

c. 47.

“ the Act of 1933 ” means the Local Government Act 1933;

“ the arbitrator ” means the arbitrator to whom any question of disputed compensation is referred under the provisions of this Act;

“ the joint committee ” means the joint committee of the Councils to be appointed under this Act;

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

41 &amp; 42 Vict.

c. 76.

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

Incorporation  
of Acts.

(1) The Lands Clauses Acts (except section 92 and sections 127 to 131 and section 133 of the Lands Clauses Consolidation Act 1845):

8 &amp; 9 Vict.

c. 18.

(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:

8 &amp; 9 Vict.

c. 20.

Provided that for the purposes of this Act the expressions “ the promoters of the undertaking ” and “ the company ” in the said Acts shall be construed to mean the Councils 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 the expression “ the railway ” in the Railways Clauses Consolidation Act 1845 shall

PART I.  
—cont.

be construed to mean the works by this Act authorised and the expression "the centre of the railway" in the said Act shall be construed to mean any part of the said works.

## PART II.

## WORKS AND LANDS.

Power to  
construct  
works.

5. Subject to the provisions of this Act the Councils may make and maintain in accordance with the deposited plans and sections and upon the lands delineated on those plans and described in the deposited book of reference the following works and may enter upon take and use all or any of the lands delineated on the deposited plans relating thereto and described in the deposited book of reference (that is to say):—

Work No. 1 An approach road commencing in the borough of Wallsend by a junction with the coast road A.1058 110 yards west of the point where the boundary between that borough and the borough of Tynemouth turns in an easterly direction passing through the borough of Tynemouth and terminating in the borough of Wallsend by a junction with Church Street Howdon near West Street;

Work No. 1A A diversion of Tynemouth Road East commencing in the borough of Tynemouth by a junction with the said road at or near Brewers Lane and terminating in the borough of Wallsend by a junction with the said Tynemouth Road East at or near Ridley Avenue;

Work No. 2 A tunnel for vehicular traffic with approach roads at each end under the river Tyne commencing in the borough of Wallsend at the termination of the said Work No. 1 passing through the borough of Tynemouth and terminating in the borough of Jarrow by a junction with Dee Street Jarrow near St. Pauls Road;

Work No. 2A An approach road and tunnel for vehicular traffic commencing in the borough of Wallsend at the termination of the said Work No. 1 and terminating in the borough of Tynemouth by a junction with the said Work No. 2 at a point 290 yards or thereabouts north of the commencement of that work;

Work No. 3 A tunnel for cyclist and pedestrian traffic under the river Tyne commencing in the borough of Wallsend near Howdon landing stage and terminating in the borough of Jarrow near Jarrow landing stage;

- Work No. 4 A tunnel for cyclist and pedestrian traffic under the river Tyne 15 yards or thereabouts west of the said Work No. 3 commencing in the borough of Wallsend and terminating in the borough of Jarrow;
- Work No. 5 An approach road commencing in the borough of Jarrow at the termination of the said Work No. 2 and terminating in the urban district of Boldon by a junction with the Gateshead-Sunderland road A.184 near West House;
- Work No. 5A A diversion of the river Don situate wholly in the borough of Jarrow commencing in the said river at a point about 1,000 yards west of Jarrow Bridge over that river and terminating in the said river at a point about 1,400 yards south-west of the said bridge;
- Work No. 6 A street situate wholly in the borough of Jarrow commencing at the termination of the said Work No. 2 and terminating by a junction with Albert Road near Richard Street;
- Work No. 7 A street situate wholly in the borough of Jarrow commencing by a junction with High Street 60 yards or thereabouts south-west of its junction with Dee Street and terminating by a junction with Monkton Terrace at or near the junction of Monkton Terrace with Henry Street and Catherine Street;
- Work No. 8 A street situate wholly in the borough of Jarrow commencing by a junction with St. John's Terrace at or near its junction with Albert Road and terminating by a junction with the said Work No. 7 near the junction of Monkton Terrace and Salem Street;
- Work No. 9 A street situate wholly in the borough of Jarrow commencing by a junction with Monkton Road at its junction with Cambrian Street and terminating by a junction with the said Work No. 7 at a point 55 yards or thereabouts south of its commencement;

together with all such approaches roundabouts tunnels lifts stairs subways passages means of ingress or egress shafts stagings buildings apparatus plant machinery and subsidiary and incidental works as may be necessary or convenient:

Provided that before constructing any ventilating shafts in the borough of Tynemouth in connection with the said Works Nos. 2 and 2A the Councils shall give to the Tynemouth Corporation notice of the intended construction accompanied by plans and sections.

## PART II.

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Power to deviate.

6. In executing any of the works by this Act authorised the Councils may subject to the provisions of this Act deviate laterally to any extent from the line or situation thereof within the limits of deviation defined on the deposited plans and vertically from the levels thereof defined on the deposited sections to any extent not exceeding ten feet upwards and to any extent downwards:

Provided that except so far as may be necessary to enable the Councils to comply with the section of this Act of which the marginal note is "For the protection of the Tyne Improvement Commissioners" no deviation either laterally or vertically below high-water mark shall be made without the consent in writing of the Minister.

Subsidiary works affecting river Tyne.

7. Subject to the provisions of this Act the Councils in connection with and at or near any works to be executed or constructed under the powers of this Act may construct place and maintain in the river Tyne and the banks bed and foreshore thereof all such temporary piles fenders booms dolphins pontoons caissons stagings cofferdams embankments piers abutments wharves walls fences drains stairs buildings and other works and conveniences as they may deem expedient or necessary.

Restrictions as to landing place.

8. Except for the purpose of landing or loading from or into vessels not arriving from or departing for foreign parts any goods or materials required for or used in the construction maintenance or repair of any works by this Act authorised none of the works constructed under the powers of this Act shall be used as a landing or loading place for goods or passengers conveyed or intended to be conveyed in any vessel.

Period for completion of works.

9. If the tunnel is not completed within ten years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Councils for making and completing the tunnel or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Stopping up of roads.

10. The Councils may stop up the whole or such portion or portions of streets and roads as are shown on the deposited plans as intended to be stopped up.

Power to prevent access to or from certain works.

11. For the purpose of facilitating the movement of vehicular traffic along the routes of Works Nos. 2 2A 6 7 and 9 by this Act authorised and for securing the safety of the public or otherwise the Councils may at the points marked on the deposited plans "Through access to be stopped up" erect walls or barriers for the prevention or limitation of access to or from any such route.

12. Subject to the provisions of this Act the Councils within the limits of deviation shown upon the deposited plans may stop up break up make junctions and communications with and alterations of the lines and levels of and otherwise interfere with alter or divert temporarily all or any part of any road street bridge stairs footpath way wharf stream or watercourse as they shall think necessary and may put up or cause to be put up sufficient palisades hoardings bars posts and other erections and may construct temporary works for keeping any such road street bridge stairs footpath way or wharf open for traffic and make such orders for regulating the traffic as to them shall seem proper Provided that the Councils shall provide reasonable access for all persons bona fide going to or returning from any house in any such road street or place.

PART II.

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Power temporarily to stop up or interfere with streets.

13. The Councils shall not exercise the powers conferred by the sections of this Act of which the marginal notes are "Stopping up of roads" "Power to prevent access to or from certain works" or "Power temporarily to stop up or interfere with streets" in relation to any street road bridge stairs footpath way wharf stream or watercourse in the borough of Tynemouth without giving fourteen days' previous notice in writing to the town clerk of Tynemouth.

As to exercise of certain powers.

14. On the stopping up (otherwise than temporarily) of any street road or lane or part of a street road or lane under the powers of this Act all rights of way over such street road or lane or the part thereof stopped up shall be extinguished and the site and soil thereof if the street road or lane or the part thereof stopped up is in the borough of Tynemouth shall vest in the Tynemouth Corporation or if it is outside the said borough shall vest in the Councils or if the Councils so agree in the Wallsend Corporation or the Jarrow Corporation as the case may be if such street road or lane is situate in the borough of Wallsend or the borough of Jarrow but the Councils shall not permanently stop up any street or portion thereof or appropriate the site and soil thereof unless they or the Jarrow Corporation or some or one of them are owners in possession of all houses and lands on both sides of the street or portion to be stopped up except so far as the owners lessees and occupiers of such houses and lands may consent thereto but such consent shall not be unreasonably withheld and any question which may arise as to whether or not such consent is unreasonably withheld shall be determined by arbitration.

Vesting of soil of streets stopped up.

15. Whereas in order to avoid in the execution and maintenance of any works by this Act authorised injury to the houses and buildings within one hundred feet of such works it may be necessary to underpin or otherwise strengthen the same therefore the Councils at their own cost and charges

Underpinning of houses near works.

PART II.  
—cont.

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):—

- (1) At least ten days' notice shall unless 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) Every such notice if given by the Councils 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 if such premises are in the county of Northumberland to the clerk of the Northumberland Council and if such premises are in the county of Durham to the clerk of the Durham Council:
- (3) If any owner lessee or occupier of any such house or building or the Councils shall within seven days after the giving of such notice give a counter-notice in writing 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 arbitration:
- (4) The arbitrator 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 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 Councils may and shall proceed forthwith so to underpin or strengthen the said house or building:
- (5) The Councils 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:
- (6) If in any case in which any house or building shall have been underpinned or strengthened on the requisition of the Councils such underpinning or strengthening shall prove inadequate for the support or protection of the house or building against any further injury arising from the execution or use of the works of the Councils then and in every such case unless such underpinning or strengthening shall have



been done in pursuance of the requirements of and in the mode prescribed by the arbitrator the Councils shall make compensation to the owners lessees and occupiers of such house or building for such injury provided the claim for compensation in respect thereof be made by such owners within twelve months and by such lessees or occupiers within six months from the discovery thereof:

- (7) Nothing in this section contained nor any dealing with any property in pursuance of this section shall relieve the Councils from the liability to compensate under section 68 of the Lands Clauses Consolidation Act 1845 or under any other Act:
- (8) Every case of compensation to be ascertained under this section shall be ascertained according to the provisions of the Lands Clauses Acts.

**16.**—(1) Subject to the provisions of this Act the Councils may pump any water found by them in the execution and maintenance of the works by this Act authorised and may use for the discharge of any such water the river Tyne or any available stream or watercourse or any sewer or drain and for that purpose may within the limits of deviation shown on the deposited plans lay down take up and alter conduits pipes and other works and make any convenient connections with any such stream watercourse sewer or drain:

Power to pump water and use sewers for removing water.

Provided always that the Councils shall not make any opening into any such sewer save in accordance with plans reasonably approved by and under the superintendence (if the same shall be given) of the local or other authority (if any) in which such sewer may be vested.

Any question arising between the Councils and any such local or other authority under the provisions of this section shall unless otherwise agreed be determined by arbitration.

(2) The Councils shall indemnify the Tynemouth Corporation from all damage expense or loss due to or resulting in any way from the discharge into any sewer owned by the Tynemouth Corporation or by that corporation jointly with the Wallsend Corporation of water pumped by the Councils in pursuance of the powers of this section.

**17.** The Councils may at their own expense after consultation with the local authority affected raise lower divert alter remove arch over or fill up or otherwise interfere with all such sewers or drains or parts thereof as shall be necessary for the purposes of this Act but so that no sewer or drain or part thereof (unless the same becomes unnecessary by reason

Power to alter sewers and drains

PART II.  
—cont.

of the purchase by the Councils of the property entitled to the use thereof) shall be interfered with without another sewer or drain being made in lieu thereof equally serviceable and convenient before the removal or filling up thereof and when made and completed any substituted sewer or drain or part thereof shall be under the same jurisdiction care management and direction as the existing sewer or drain or part thereof for which it is substituted:

Provided that before exercising the powers of this section within the borough of Tynemouth the Councils shall give to the Tynemouth Corporation notice of their intention so to do accompanied by plans and sections and shall exercise such powers only in accordance with the reasonable directions of the Tynemouth Corporation and any difference which may arise between the Councils and the Tynemouth Corporation as to the reasonableness or otherwise of any such directions shall be settled by arbitration.

Alteration of  
position of  
water gas and  
other pipes.

18.—(1) Subject to the provisions of this section the Councils may for the purposes of this Act upon the lands acquired by them under the powers of this Act and also in any street road or place within the limits of deviation defined on the deposited plans raise sink or otherwise alter the position of any watercourse water pipe or gas pipe belonging to or connected with any house or building and also any main pipe or apparatus laid down or used by any company authority or person for carrying a supply of water or water for hydraulic power or gas and also any pipe tube wire or apparatus laid down or placed for telegraphic postal or other purposes or for supplying electricity (all of which mains pipes tubes wires and apparatus are in this section included in the expression "apparatus") and may remove any other obstruction making proper substituted works during any alteration and causing as little detriment and inconvenience as circumstances admit and making reasonable compensation to any company authority or person who suffers damage by any such alteration.

(2) Before the Councils alter the position of or execute any work which would interfere with or endanger any apparatus laid down or used by any such company authority or person they shall (except in cases of emergency) give to the company authority or person to whom the same belongs notice of the intention to do so specifying the time at which the Councils will begin to do so such notice to be given except in case of emergency fourteen days at least before the commencement of the work and such work shall be done at the expense of the Councils under the superintendence of the company

authority or person to whom such apparatus belongs unless such company authority or person refuse or neglect to give such superintendence at the time specified in the notice for the commencement of such work or discontinue the same during the execution of such work and the Councils shall execute such work to the reasonable satisfaction and in accordance with the reasonable directions of the engineer of such company authority or person.

(3) If within seven days of the receipt of such notice any such company or authority shall give notice to the Councils of their desire themselves to execute any such work of alteration they shall forthwith proceed to do so and the cost reasonably incurred by them in so doing shall be repaid to them by the Councils. Provided that such alterations shall be carried out in accordance with the directions and to the reasonable satisfaction of the Councils.

(4) The Councils shall not cause any land street road or way to be lowered nor the position of any apparatus to be altered so as to leave over such apparatus in any part a covering of less than three feet where the covering now existing is not less than three feet or the existing covering if the existing covering is less than three feet unless the Councils shall in such case protect such apparatus from frost or injury by artificial covering to the reasonable satisfaction of the engineer of the company authority or person to whom the same belongs nor cause any land street road or way to be raised more than four feet where the covering now existing does not exceed four feet or more than such existing covering where the same exceeds four feet unless the Councils in such case provide special means of access to such apparatus to the reasonable satisfaction of the engineer of such company authority or person.

(5) If any difference arises between the Councils and any such company authority or person touching the amount of any costs expenses or charges under the provisions of this section to be paid by the Councils to any such company authority or person or touching any work matter or thing with reference to such apparatus under such provisions to be done or executed by the Councils or the mode of doing or executing the same such difference shall unless otherwise agreed be settled by arbitration.

(6) The Councils shall not raise sink or otherwise alter the position of or interfere with any telegraphic line or other apparatus belonging to or used by the Postmaster-General except under and subject to the provisions of the Telegraph Act 1878.

## PART II.

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Power to alter steps areas &c. and execute protective works.

19. The Councils may within the limits of deviation defined on the deposited plans and for the purposes of this Act—

- (a) raise sink or otherwise alter or cause to be altered the position of any of the steps areas vaults cellars cellar-flaps pavement lights gratings boundary walls railings fences windows watercourses pipes or spouts belonging to any house or building and may remove all other obstructions so as the same be done with as little delay and inconvenience to the inhabitants as the circumstances of the case will admit the Councils making reasonable compensation to any person who suffers damage by any such alteration;
- (b) execute any works and do any things necessary for the protection of any adjoining land or buildings and for the strengthening and supporting of any walls of such buildings.

Laying out repair and lighting of works.

20. The Councils may lay out the works (other than Work No. 5A) by this Act authorised or any part thereof for carriageways and for footways as they may think proper and may sewer level pave metal flag channel and complete such carriageways and footways and may from time to time execute all such works and do all such acts in under or upon any of the carriageways and footways forming part of the works by this Act authorised as they may from time to time think proper for preserving repairing lighting ventilating or improving those works and may for that purpose enter upon and break open the soil and pavement of such carriageways and footways and any sewers drains or tunnels within or under the same causing as little inconvenience as may be in the execution of the powers hereby conferred and restoring the said carriageways footways sewers drains or tunnels as nearly as practicable to the same condition as they were in before such breaking and opening:

Provided that before exercising the powers of this section in relation to Works Nos. 1 and 1A authorised by this Act within the borough of Tynemouth the Councils shall give to the Tynemouth Corporation notice of their intention so to do accompanied by plans and sections and shall exercise such powers only in accordance with the reasonable directions of the Tynemouth Corporation and any difference which may arise between the Councils and the Tynemouth Corporation as to the reasonableness or otherwise of any such directions shall be settled by arbitration.

Maintenance and lighting of works.

21.—(1) The works by this Act authorised (other than Work No. 5A) shall so soon as the same shall have been completed (but subject to the provisions of this Act) become and

be under the jurisdiction and management of the Northumberland Council so far as the same are within the administrative county of Northumberland and under the jurisdiction and management of the Durham Council so far as the same are within the administrative county of Durham and shall be deemed to be county roads and the soil under any such works (other than the bed banks or shores of the river Tyne) for such estate and interest as the Councils shall have acquired therein shall be vested so far as the same shall be in the said county of Northumberland in the Northumberland Council and so far as the same shall be in the said county of Durham in the Durham Council.

(2) On the completion of Works Nos. 1 and 1A by this Act authorised the Northumberland Council shall enter into an agreement with the Tynemouth Corporation that so much of the said works as lie within the borough of Tynemouth shall without any cost to the said corporation be vested in and maintained by and be under the jurisdiction and management of the said corporation and any such agreement shall be binding on the said council and corporation and of full effect as between the said council and corporation and any third party and it shall be a term of any such agreement that the Northumberland Council will reimburse to the Tynemouth Corporation from time to time the cost of maintaining repairing and renewing the parts of the said works the subject of such agreement.

22.—(1) The Councils may light any works by this Act authorised (other than Work No. 5A) and may enter into and carry into effect any agreement with any other body or person with respect to lighting the same or any of them and any expense incurred in lighting ventilating draining or otherwise maintaining the said works or any of them shall be deemed to be part of the expense of constructing and maintaining the said works and shall be defrayed accordingly and for the purposes of the Development and Road Improvement Funds Act 1909 as amended by any subsequent Act the said works shall be deemed to be a new road and such lighting ventilating draining or other maintenance shall be deemed to be maintenance of the said new road.

(2) In addition to the foregoing powers the Councils shall have the same powers for carrying such drains and other works and conveniences as they may consider necessary or convenient for the drainage of the works authorised by or vested in the Councils under this Act as a local authority have under the Public Health Act 1936 for carrying sewers within and without their district and when exercising such powers the Councils shall be subject to the restrictions to

PART II.  
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which a local authority would be subject if exercising the same and the provisions of that Act relating to the construction of sewers shall with any necessary modifications apply accordingly:

Provided that before constructing a drain or other work in the borough of Tynemouth the Councils shall give to the Tynemouth Corporation notice of their proposal together with a plan and section showing the route and position of the drain or other work. If the Tynemouth Corporation serve on the Councils within twenty-eight days of the receipt of any such notice a notice of objection to the proposal the Councils shall not proceed with the proposal unless the objections so made are withdrawn or the Minister has approved the proposal with or without modification.

County  
boundary for  
purposes  
of this Act.

23. For the purposes of this Act the boundary between the counties of Northumberland and Durham shall be the boundary shown on the deposited plans and the Councils shall in the construction of the tunnel cause to be affixed therein a mark indicating the point at which the tunnel passes over such boundary and the said boundary shall be deemed to be the boundary as so indicated.

Agreements  
with  
government  
departments  
and others.

24. The Councils on the one hand and the Minister on the other hand may enter into and carry into effect agreements and arrangements with respect to the construction or maintenance of the tunnel or any part thereof and as to other objects or purposes of this Act and matters incidental thereto and the Councils on the one hand and any government department or any company body or person on the other hand may enter into and carry into effect agreements and arrangements with respect to the construction of any works by this Act authorised which may be carried under or affect the river Tyne or the bed banks or shores thereof or over or under or affect any property of such department company body or person or with respect to the maintenance of any such works or property and as to any matters incidental thereto or as to any other objects or purposes of this Act and any such agreement or arrangement may make provision as to the payments to be made by any party thereto to any other party thereto in respect of any such matter but any such agreement with respect to the construction of any works by this Act authorised shall be subject to the approval of the Minister. Any payments to be made by the Minister under any such agreement or arrangement may be made by the Minister out of the Road Fund and save so far as may be otherwise provided by such agreement shall be deemed to be part of the cost of the works authorised by this Act.

25. The Councils may whenever in their opinion it is necessary so to do for the purposes of the maintenance repair or improvement of the tunnel or any work forming part of the tunnel as defined by this Act wholly or partially close the tunnel or any such work or any portion thereof:

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As to closing tunnel and works.

Provided that except in an emergency the Councils shall not close the tunnel or any work forming part thereof without giving to the Tynemouth Corporation not less than seven days' previous notice in writing and giving the like notice by advertisement in some newspaper or newspapers circulating in the borough of Tynemouth.

26. Notwithstanding anything contained in any enactment no person shall enter upon break up or interfere with the Works Nos. 2 2A 3 or 4 by this Act authorised or the carriage-ways 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 Councils in writing and in accordance with such terms and conditions as the Councils may determine:

No mains or pipes to be laid in tunnel.

Provided that the consent of the Councils to the breaking up of and interference with any such work or the carriage-ways and footways of the same for the purpose of laying down electric lines therein shall not be withheld unreasonably and that any question which may arise as to whether such consent is so withheld or as to whether the terms and conditions subject to which any such consent is given are reasonable shall be determined by the Minister.

27.—(1) For the purposes of the Telegraph Acts 1863 to 1943 the tunnel shall be deemed to be a subway within the meaning of section 6 of the Telegraph Act 1878.

For protection of Postmaster-General.

(2) The Councils shall in constructing the tunnel provide for the telegraphic lines of the Postmaster-General such reasonable accommodation as shall be sufficient for four pipes for enclosing cables the external diameter of each pipe not to exceed six inches. The accommodation shall be provided in accordance with plans sections and particulars to be previously submitted to and reasonably approved by the Postmaster-General. Provided that if within one month of the receipt of the said plans sections and particulars the Postmaster-General shall not have intimated to the Councils his disapproval thereof or made any requirement with respect thereto he shall be deemed to have approved the same.

(3) Nothing in this Act contained shall alter prejudice or affect any of the rights powers and authorities of the Postmaster-General under the provisions of the Telegraph Acts 1863 to 1943.

PART II.  
—cont.  
For further  
protection of  
Postmaster-  
General.

28.—(1) Notwithstanding the stopping up of any of the streets or roads referred to in subsection (3) of this section or any portion of any such street or road the following provisions shall unless otherwise agreed in writing between the Councils and the Postmaster-General have effect in relation to any telegraphic line belonging to or used by the Postmaster-General which is under in upon over along or across such street or road or portion thereof at the time when it is stopped up:—

- (a) The Postmaster-General shall have power to remove the line so however that the said power shall not be exerciseable as respects the whole or any part of the line after the expiration of a period of three months from the date mentioned in subsection (2) of this section unless before the expiration of that period the Postmaster-General has given notice to the Councils of his intention to remove the line or that part thereof as the case may be;
- (b) The Postmaster-General may by notice to the Councils in that behalf abandon the said line or any part thereof and shall be deemed as respects the line or any part thereof to have abandoned it at the expiration of the said period of three months unless before the expiration of that period he has removed it or given notice of his intention to remove it;
- (c) The Postmaster-General shall be entitled to recover from the Councils the expense of providing in substitution for the line and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the line a telegraphic line in such other place as the Postmaster-General may require;
- (d) Where under paragraph (b) of this subsection the Postmaster-General abandons the whole or any part of a telegraphic line it shall vest in the Councils and the provisions of the Telegraph Acts 1863 to 1943 shall not apply in relation to the line or part in question as respects anything done or omitted after the abandonment thereof.

(2) On the stopping up of the said streets or roads or any of them or any portion thereof the Councils shall send by post to the Postmaster-General a notice informing him of such stopping up and the period of three months mentioned in subsection (1) of this section shall commence to run from the date on which such notice is sent.



- (3) The streets or roads to which this section refers are—
- (a) in the borough of Wallsend Main Street and Chapel Street;
  - (b) in the borough of Jarrow Edward Street Albert Road the roadway running south-eastwards from High Street and the roadway parallel to and between Howard Street and Cobden Street;
  - (c) the portion of Tynemouth Road East which will be stopped up on or in connection with the carrying out of the diversion (Work No. 1A) specified in the section of this Act the marginal note whereof is “ Power to construct works.”

29. The Councils may sell or dispose of all matters or things excavated or obtained in the construction of the works by this Act authorised and all building and other materials of any houses buildings or structures acquired by them under the powers of this Act and not required for the purposes of this Act and also all matters or things in under or upon any road street or other place altered by them for the purposes of this Act and any matters or things obtained in the alteration of or interference with any drain or sewer under the powers of this Act. Power to sell materials.

30.—(1) The land (which expression includes land covered with water and any right in over or under land) in or on which the works authorised by this Act (other than Work No. 5A) are to be constructed shall (before during and after such construction) be deemed to be a road for the purposes of the Restriction of Ribbon Development Act 1935 and the provisions of that Act shall (subject to the provisions of subsection (2) of this section) apply accordingly. Application of Restriction of Ribbon Development Act 1935.  
25 & 26 Geo. 5.  
c. 47.

(2) For the purposes of the Restriction of Ribbon Development Act 1935 as applied by this section—

- (a) the functions conferred by the said Act on highway authorities shall as respects the land referred to in subsection (1) of this section be exercised exclusively in the administrative county of Northumberland by the Northumberland Council in the administrative county of Durham by the Durham Council and in the borough of Tynemouth by the Tynemouth Corporation; and
- (b) the centre lines of the said works as respectively shown on the plans deposited in connection with the Bill for this Act shall be deemed to be the middle of the road.

PART II.  
—cont.

(3) The functions conferred by the said Act shall only be exercised by the Northumberland Council in the administrative county after consultation with and having regard to the requirements and intentions of the Tynemouth Corporation in relation to any lands or roads in the borough of Tynemouth adjoining adjacent to or connecting with the said land referred to in subsection (1) of this section and the functions conferred by the said Act shall only be exercised by the Tynemouth Corporation in the borough of Tynemouth after consultation with and having regard to the requirements and intentions of the Northumberland Council in relation to any lands or roads in the said county adjoining adjacent or connecting with the said land referred to in subsection (1) of this section.

As to taking  
parts of certain  
properties.

31. No person shall be required to sell a part only of any house building or manufactory or of any land which forms part of a park or garden belonging to a house if he is willing and able to sell the whole of the house building manufactory park or garden unless the arbitrator determine that in the case of a house building or manufactory such part as is proposed to be taken can be taken without material detriment to the house building or manufactory or in the case of a park or garden that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house and if the arbitrator so determine compensation shall be awarded in respect of the severance of the part so proposed to be taken in addition to the value of that part and thereupon the person interested shall be required to sell to the Councils that part of the house building manufactory park or garden.

Power to enter  
upon property  
for survey and  
valuation.

32. The Councils and their surveyors officers and workmen and any person duly authorised in writing under the hand of the clerk of either of the Councils may from time to time at all reasonable times in the day upon giving in writing for the first time twenty-four hours' and afterwards from time to time twelve hours' previous notice enter upon and into the lands houses and buildings authorised by this Act to be taken and used or any of them for the purposes of surveying and valuing the said lands houses and buildings without being deemed trespassers and without being subject or liable to any fine penalty or punishment on account of entering or continuing upon any part of the said lands houses and buildings.

Further  
powers of  
entry.

33. At any time after notice to treat has been served for any land or easement which the Councils are by this Act authorised to purchase compulsorily the Councils may after giving to the owner and occupier of the land or easement not less than fourteen days' notice enter on and take possession of the land or such part thereof or easement therein as is

specified in the notice without previous consent or compliance with sections 84 to 90 of the Lands Clauses Consolidation Act 1845 but subject to the payment of the like compensation for the land or easement of which possession is taken and interest on the compensation awarded as would have been payable if those provisions had been complied with.

PART II.  
—cont.

34. In determining the amount of compensation or purchase money to be paid by the Councils in respect of the acquisition under this Act of any part of the lands of any person the enhancement in value of the adjoining lands of such person not so acquired or of any other lands of such person which are contiguous to such adjoining lands arising out of the exercise of the powers of this Act shall be fairly estimated and shall be set off against the said compensation or purchase money.

Benefits to be set off against compensation.

35. With respect to the properties shown on the deposited plans which are described or referred to in the schedule to this Act notwithstanding anything contained in this Act or shown on the said plans the Councils shall not be required to purchase or take the same or any part of the surface thereof but the Councils may purchase and take and the owners of and other persons interested in any such property shall sell an easement or right of using the subsoil and under-surface of such property for the purposes of this Act and the provisions of the Lands Clauses Acts with respect to lands shall extend and apply to such easement or right of user as fully as if the same were lands within the meaning of those Acts except that no such easement or right of user shall be deemed part of a house or other building or manufactory within the meaning of the section of this Act of which the marginal note is "As to taking parts of certain properties" Provided that the Councils shall not acquire compulsorily an easement or right of using the subsoil and under-surface of any such property the ground surface of which is at a less height than twenty-five feet above the crown of the tunnel thereunder as the same shall be constructed.

Owners may be required to grant easements only.

36. The powers granted by this Act for the compulsory purchase of lands shall cease on the thirty-first day of December nineteen hundred and forty-nine.

Period for compulsory purchase of lands.

37. All private rights of way over any lands which under the powers of this Act shall be acquired compulsorily shall as from the date of such acquisition be extinguished. Provided that the Councils shall make compensation to all parties interested in respect of any such rights and such compensation shall be settled in manner provided by law with reference to the taking of lands otherwise than by agreement.

As to private rights of way over lands taken compulsorily.

PART II.  
—cont.  
Compensation  
in case of  
recently  
acquired  
interest.

38. For the purposes of determining any question of disputed compensation payable in respect of lands taken under the powers of this Act the arbitrator shall not award any sum of money for or in respect of any improvement alteration or building made or for or in respect of any interest in the land created after the twentieth day of November nineteen hundred and forty-five if in the opinion of the arbitrator the improvement alteration or building or the creation of the interest in respect of which the claim is made was not reasonably necessary and was made or created with a view to obtaining or increasing compensation under this Act.

Correction of  
errors in  
deposited  
plans and book  
of reference.

39. If there be any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plans or specified in the deposited book of reference the Councils after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to two justices acting for the county or county borough in which such lands are situate for the correction thereof and if it appear to the justices hearing the application that the omission misstatement or wrong description arose from mistake they shall certify the same accordingly and they shall in their certificate state the particulars of the omission and in what respect any such matter is misstated or wrongly described and such certificate shall be deposited with the clerk of the county council for the county or the town clerk of the county borough in which the lands therein referred to are situate and a duplicate thereof shall also be deposited with the town clerk of the borough or the clerk of the council of the urban district in which such lands are situate and such certificate and duplicate respectively shall be kept by such clerks respectively with the other documents to which the same relate and thereupon the deposited plans or book of reference shall be deemed to be corrected according to such certificate and the Councils may take the lands and execute the works in accordance with such certificate.

Persons under  
disability may  
grant ease-  
ments.

40. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may (if they think fit) subject to the provisions of those Acts and of this Act grant to the Councils any easement right or privilege (not being an easement right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

41. Subject to the provisions of this Act the Councils may in connection with the powers granted to them by this Act enter into and carry into effect agreements with any person being the owner of or interested in any lands or property which may be acquired under the provisions of this Act or which may be in the neighbourhood of the works by this Act authorised with respect to the sale or purchase by the Councils of any lands or property or any rights or easements in on or affecting the same for such consideration as may be agreed upon between the Councils and such person or with respect to the reinstatement of such person or the exchange of lands for such purpose and the Councils may accept as satisfaction of the whole or any part of such consideration the grant by such person of any lands or other property required by them for the purposes of this Act and may pay or receive money for equality of exchange.

PART II.  
—cont.  
Agreements  
with owners  
of property.

42. In addition to the lands shown on the deposited plans and described in the deposited book of reference the Councils may purchase take on lease or acquire by agreement and may hold any lands not exceeding in the whole fifty acres in connection with and for the purposes of the works by this Act authorised or for providing substituted sites or facilities for any persons whose lands may be required by the Councils for the said purposes.

Purchase of  
lands by  
agreement.

43.—(1) Notwithstanding anything in the Lands Clauses Acts to the contrary the Councils may retain and hold and use for such time as they may think fit or may sell lease exchange or otherwise dispose of in such manner and for such consideration and on such terms and conditions as they may think fit and in consideration either of the execution of works or of the payment of a gross sum or of an annual rent or of any payment in any other form any lands or any interest therein acquired by them under this Act and may sell exchange or dispose of any rents reserved on the sale lease exchange or disposition of such lands or interest therein and may make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition and on any exchange may give or take any money for equality of exchange:

Retention and  
disposal of  
lands.

Provided that the Councils shall not without the consent of the Minister of Health sell lease exchange or otherwise dispose of any such lands or any interest therein at a price or rent or for a consideration of a value less than the current market value of such lands or interest but a purchaser or lessee shall not be concerned to inquire whether the consent of the Minister of Health is necessary or has been obtained.

PART II.  
—cont.

(2) Nothing in this section shall release the Councils or any person purchasing or acquiring any lands from them under this section from any rents covenants restrictions reservations terms or conditions payable in respect of or affecting the lands other than the restrictions imposed by sections 127 to 131 of the Lands Clauses Consolidation Act 1845 but all such rents covenants restrictions reservations terms and conditions shall remain and be of as full force and effect and may be recovered exercised enjoyed and enforced in the like manner and to the same extent as if this Act had not been passed.

Power to lay  
out streets &c.

44.—(1) The Councils may lay out as streets or otherwise any lands acquired by them under the powers of this Act and not required for the purposes for which they were acquired and may also grant any easements rights or privileges in under or over such lands or any part or parts thereof.

38 & 39 Vict.  
c. 55.

(2) Nothing in this section shall exempt the Councils from the obligation to comply in respect of the borough of Tyne-mouth with any byelaws under section 157 of the Public Health Act 1875 and section 61 of the Public Health Act 1936 from time to time in force in the said borough.

Undertaking  
to be exempt  
from rates.

45. Notwithstanding anything contained in any Act Works Nos. 1 2 2A 3 4 and 5 by this Act authorised and the carriage-ways and footways thereof and the buildings (not being dwelling-houses or office buildings) machinery apparatus and works used in connection therewith shall not be assessed to any local rate.

Works below  
high-water  
mark to be  
subject to  
approval of  
Minister.

46.—(1) Subject to the provisions of this Act any work authorised by this Act shall only be constructed so far as the same shall be on under or over tidal waters or tidal lands below high-water mark of ordinary spring tides in accordance with plans and sections approved by the Minister and subject to such restrictions and regulations as the Minister may prescribe before such work is begun.

(2) Any alteration or extension of any such work shall be subject to the like approval.

(3) If any such work be commenced or completed contrary to the provisions of this section the Minister may abate and remove the same and restore the site thereof to its former condition at the cost of the Councils and the amount of such cost shall be a debt due from the Councils to the Crown and shall be recoverable either as a debt due to the Crown or where the amount does not exceed twenty pounds by the Minister summarily as a civil debt.

PART II.

—cont.

Lights on  
works during  
construction.

47.—(1) The Councils shall at or near such part of the works by this Act authorised as shall be below high-water mark of ordinary spring tides during the whole time of the construction alteration or extension of the same exhibit and keep burning every night from sunset to sunrise such lights (if any) and take such other steps for the prevention of danger to navigation as the Minister or the Tyne Improvement Commissioners shall from time to time require or approve.

(2) If the Councils fail to comply in any respect with the provisions of this section they shall be liable on summary conviction to a penalty not exceeding twenty pounds and in the case of a continuing offence to an additional penalty not exceeding two pounds for every day on which after conviction thereof they so fail.

48. If at any time the Minister deems it expedient for the purposes of this Act to order a survey and examination of any work constructed by the Councils under the powers of this Act which shall be on under or over tidal waters or tidal lands below high-water mark of ordinary spring tides or of the site upon which it is proposed to construct any such work the Councils shall defray the expense of the survey and examination and the amount thereof shall be a debt due from the Councils to the Crown and shall be recoverable either as a debt due to the Crown or where the amount does not exceed twenty pounds by the Minister summarily as a civil debt.

Survey of  
works by  
Minister.

49.—(1) Where any work constructed by the Councils under the powers of this Act and situate wholly or partially on under or over the shore or bed of the sea or of any creek bay arm of the sea or navigable river communicating therewith below high-water mark of ordinary spring tides is abandoned or suffered to fall into decay the Minister may by notice in writing either require the Councils at their own expense to repair and restore such part of such work as is situate below high-water mark of ordinary spring tides or any portion thereof or require them to abate or remove the same and restore the site thereof to its former condition to such an extent and within such limits as the Minister may think proper.

Abatement  
of work  
abandoned  
or decayed.

(2) Where any part of any such work which has been abandoned or suffered to fall into decay is situate above high-water mark of ordinary spring tides and is in such condition as to interfere or to cause reasonable apprehension that the same may interfere with the right of navigation or other public rights over the foreshore the Minister may include any such part of such work or any portion thereof in any notice under this section.

PART II.  
—cont.

(3) If during the period of thirty days from the date when the notice is served upon the Councils they have failed to comply with such notice the Minister may execute the works required to be done by the notice at the expense of the Councils and the amount of such expense shall be a debt due from the Councils to the Crown and shall be recoverable either as a debt due to the Crown or where the amount does not exceed twenty pounds by the Minister summarily as a civil debt.

Provision  
against danger  
to navigation.

**50.**—(1) In case of injury to or destruction or decay of the works by this Act authorised or any part thereof so far as the same shall be constructed on under or over any tidal waters or tidal lands below high-water mark of ordinary spring tides the Councils shall lay down such buoys exhibit such lights or take such other means for preventing so far as may be danger to navigation as shall from time to time be directed by the Corporation of Trinity House Deptford Strond and shall apply to that corporation for directions as to the means to be taken.

(2) If the Councils fail to comply in any respect with the provisions of this section they shall be liable on summary conviction to a penalty not exceeding ten pounds and in the case of a continuing offence to an additional penalty not exceeding one pound for every day during which they omit after conviction thereof so to apply or refuse or neglect to obey any direction given in reference to the means to be taken.

For protection  
of London and  
North Eastern  
Railway  
Company.

**51.** Notwithstanding anything in this Act or shown upon the deposited plans and sections the following provisions shall unless otherwise agreed in writing between the Councils and the London and North Eastern Railway Company (in this section referred to as "the company") apply and have effect (that is to say):—

(1) In this section—

"The railway" means the railways lands works and property of the company;

"The works" means so much of Works Nos. 1 5 and 5A by this Act authorised and of any works connected therewith as may be made maintained or renewed upon across under or over the railway or which will otherwise affect the same and except where otherwise expressly stated includes the bridge works hereinafter referred to;

"The bridge works" means the bridges required to carry the company's lines of railway over Works Nos. 1 and 5 and any ancillary or temporary works connected therewith;

"The engineer" means the company's engineer:



(2) Except with the previous consent in writing of the company the Councils shall not enter upon take use or interfere with either permanently or temporarily or purchase or acquire any lands or property belonging to the company but the Councils may purchase and take and the company shall sell and grant an easement or right of using such of the lands of the company as may be necessary for the construction and maintenance of the works subject to and in accordance with the provisions of this section:

(3) The Councils shall pay to the company for any easement or right which they may acquire under the provisions of this section such consideration as may be agreed upon or in the event of difference as may be determined in manner provided by the Lands Clauses Acts:

(4) (i) The bridge works including such temporary works in connection therewith as the engineer may consider necessary to ensure the safety of and the least practicable interference with the company's railway and the traffic thereon shall be constructed by the company on behalf and at the expense of the Councils in accordance with plans sections drawings and specifications to be prepared by the engineer and submitted by him for the reasonable approval of the Councils;

(ii) The company shall not be required to carry out any of the bridge works until the Councils shall have signified in writing their approval of such plans sections drawings and specifications or in case of difference until the same shall have been settled by arbitration;

(iii) The Councils shall as a first instalment towards the expenses incurred or to be incurred by the company in connection with the bridge works pay to the company on the certificate of the engineer that the execution of the bridge works has been commenced a sum equal to twenty per centum of the estimated total cost of the bridge works and the Councils shall thereafter pay to the company monthly on the certificate of the engineer a further instalment of a sum representing the value of such of the bridge works as shall have been executed by the company in excess of the total of the sums so paid by the Councils on previous certificates (other than the amount of the first instalment);

(iv) Upon completion of the bridge works and the actual cost thereof being ascertained and certified by

PART II  
—cont.

the engineer (whose certificate shall be final and conclusive) the difference between the total amount then already paid by the Councils to the company and the actual cost of the works shall be paid by or repaid to the Councils as the case may be;

(v) The Councils shall also pay to the company a sum equal to seven per centum of the total cost of the works or the sum of six hundred pounds whichever be the greater in respect of—

(a) services rendered by the company equivalent to those rendered by a consulting engineer or quantity surveyor including the preparation of plans estimates specifications conditions of contract bills of quantities forms of tender and contract documents the supervision of the works and the certification of the payments due and of the commencement and completion of the works;

(b) all costs charges and expenses certified by the engineer to have been incurred by the company in respect of the employment of a resident engineer or other person specially appointed for the purpose of carrying out duties normally entrusted to a resident engineer; and

(c) the employment by the company of inspectors on the site and at manufacturers' works and the employment by them with reference to the execution of the bridge works of such persons as are referred to in paragraph (c) of subsection (6) hereof;

and eighty per centum of such sum shall be paid by the Councils to the company with the first instalment referred to in paragraph (iii) of this subsection;

(vi) The Councils' engineers shall have access at all reasonable times to the company's premises for the purpose of inspecting the progress of the bridge works and reasonable facilities to inspect all vouchers relating to the cost thereof;

(vii) The bridge works when completed shall at all times be maintained and when necessary renewed by the company on behalf of and at the expense of the Councils who shall on completion of the bridge works pay to the company such sum as may be agreed or in case of difference determined by arbitration to represent the capitalised amount of the cost to the company of maintaining and renewing the bridge works:

- (5) With respect to the works other than the bridge works the following provisions shall apply:—

(i) The Councils shall not less than twenty-eight days before commencing the construction of any of the works furnish to the company proper and sufficient plans sections drawings and specifications of such works for the reasonable approval of the engineer and shall not commence such works until such plans sections drawings and specifications shall have been approved in writing by the engineer or in case of difference settled by arbitration;

(ii) The works shall when commenced be carried out continuously and with all possible dispatch and shall be constructed in such line or situation within the limits of deviation shown upon the deposited plans and according to such levels as shall be reasonably approved by the engineer and by such means and in such manner as to leave the railway undisturbed at all times and so as in no way to obstruct impede or interfere with the free uninterrupted and safe user thereof or with the traffic thereon and if any such interruption or interference shall be caused or take place contrary to this enactment the Councils shall notwithstanding any such approval as aforesaid pay to the company all reasonable costs and expenses to which the company may be put as well as compensation for any loss sustained by them by reason of any such interruption or interference;

(iii) The works shall be executed under the supervision and to the reasonable satisfaction of the engineer and the Councils shall at all times afford reasonable facilities to the engineer for access to the works during their construction and shall supply to the engineer all such information as he may reasonably require with regard to the works or the method of construction thereof:

- (6) The Councils shall reimburse to the company on demand all costs charges and expenses certified by the engineer to have been incurred by the company—

(a) in respect of any special traffic working or resulting from any speed restrictions which may in the opinion of the engineer require to be imposed or from the substitution or diversion of services during the progress of the works or if necessary within a reasonable time thereafter;

PART II.  
—cont.

(b) in lighting the railway in the vicinity of and during the progress of the works;

(c) in respect of the employment by the company of a sufficient number of inspectors watchmen signalmen and other persons to be appointed by them for inspecting lighting watching and signalling the railway with reference to and during the execution of any of the works other than the bridge works and the renewal or repair of the work and for preventing as far as may be all interference obstruction danger or accident arising therefrom;

(d) in respect of the approval by the engineer of plans sections drawings and specifications submitted by the Councils and of the supervision by the engineer of any works executed by the Councils or their contractors:

- (7) The Councils shall at all times maintain the culverts whereby Work No. 5A will be carried under the company's railway with all necessary works ancillary thereto in substantial repair and good order and condition and from time to time renew the said culverts to the reasonable satisfaction of the engineer and if and whenever the Councils fail to do so after reasonable notice in that behalf the company may make and do in and upon as well the lands and property of the company as of the Councils such works and things as the engineer shall think requisite in that behalf and the reasonable cost of so doing as certified by the engineer shall be repaid to the company by the Councils on demand:
- (8) The Councils shall be responsible for and make good to the company all costs charges losses damages and expenses not otherwise provided for which may be occasioned to them or to the railway or to the traffic thereon or otherwise by reason of the construction renewal maintenance user or failure of the works or of any act or omission of the Councils or of any person or persons in their employ or of their contractors or others whilst engaged upon works under or in pursuance of the provisions of this Act and the Councils shall effectually indemnify and hold harmless the company from all claims or demands upon or against them by reason of such construction renewal maintenance user or failure or of any such act or omission Provided that the fact that any work or thing has been done in accordance with any

plan section drawing or specification prepared or approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not excuse the Councils from any liability for damage as aforesaid or affect any claim of the company for injury to the railway or the traffic thereon:

- (9) If any additions or alterations either permanent or temporary to the railway or to any signal boxes signals signalling apparatus telephones or telegraph posts and wires or any other works or apparatus on the railway shall in the opinion of the engineer be necessary to be made in consequence of the construction of the works the same may be effected by the company and the cost thereof as certified by the engineer shall be repaid to the company by the Councils on demand and shall include a sum to represent the capitalised cost of (i) maintaining working and when necessary renewing any such additional works or apparatus as aforesaid and (ii) the increased expenses (if any) entailed in maintaining working and when necessary renewing any such altered works or apparatus:
- (10) If at any time hereafter the company shall be desirous of widening or altering under their existing statutory powers any part of the railway affected by the works or under any such powers of adapting any part of the railway so affected for working by electrical power the Councils shall give to the company all proper and reasonable facilities for that purpose including the right in connection with such electrification to make attachments to the works subject to the reasonable approval of the Councils:
- (11) Any additional expense as certified by the engineer which the company may reasonably incur under their existing statutory powers in widening altering reconstructing repairing or maintaining the railway by reason of the existence of the works shall be paid by the Councils to the company on demand:
- (12) (a) The company shall not be under any obligation to purchase any mines or minerals or to require any minerals to be left unworked for the support of the works;
- (b) If in the opinion of the engineer it shall be necessary for the protection and safety of the railway for the company to purchase or pay compensation for any minerals required to be left unworked for

PART II.  
—cont.

the support of any of the works the Councils shall on demand pay the company the amount paid by the company for or in respect of such minerals and of the costs and expenses incurred by the company in relation to any such purchase or payment of compensation:

(13) If at any time hereafter the company shall require to replace the track upon and resume the use of the temporarily disused branch railway numbered on the deposited plans 17 in the borough of Wallsend the company shall be entitled after giving notice in writing to the Councils in that behalf to carry the said branch railway over Work No. 1 by means of a bridge to be constructed and maintained by the company on behalf of and at the expense of the Councils and the provisions of this section shall apply with respect to such bridge as if the same were part of the bridge works:

(14) Any difference arising between the Councils and the company under this section (other than a difference as to the meaning or construction of this section) shall be referred to and determined by arbitration.

Differential rating of certain railways and canals.

52. As regards any rates which may be made or as regards any increase in any rate which may be made under or for the purposes of this Act by the Councils or by any other authority the London and North Eastern Railway Company in respect of any land used as a railway constructed under the powers of any Act of Parliament for public conveyance or as a canal or towing path for a canal or any land covered with water shall be chargeable with one-fourth part only of the amount in the pound of any such rate or increase and the accounts of the Councils the joint committee and any council or local or road authority which may make any contribution towards the cost of the works by this Act authorised shall at all reasonable times be open to inspection by or on behalf of the said company.

For the protection of the Tyne Improvement Commissioners.

53. For the protection of the Tyne Improvement Commissioners (in this section referred to as "the commissioners") the following provisions shall unless otherwise agreed between the Councils and the commissioners have effect:—

(1) (a) Notwithstanding anything in this Act the Councils shall not without the previous consent in writing of the commissioners purchase or acquire any part of so much as belongs to the commissioners of the properties numbered on the deposited plans 118 119 and

122 in the borough of Wallsend but the Councils may purchase and acquire and the commissioners if so required by the Councils shall sell and grant to the Councils such easements or rights in so much as belongs to the commissioners of the said properties as may be required by the Councils for the purposes of constructing maintaining repairing and lighting and permitting the user of the tunnel under the surface of the said properties subject to the provisions of this section and the other provisions of this Act;

(b) Any easements or rights to be sold and granted by the commissioners to the Councils under the provisions of this subsection shall be sold and granted on such terms as (failing agreement) shall be determined under the Lands Clauses Acts:

(2) Notwithstanding anything in this Act or shown on the deposited sections the tunnel shall be so constructed that no part thereof shall at any place under the bed or foreshore of the river Tyne (in this section called "the river") be above the depth at such place to which under the provisions of subsection (3) of this section the bed and foreshore of the river may be dredged and deepened by the commissioners without responsibility for damage:

(3) The commissioners shall in no way be responsible or answerable for any damage or injury to the tunnel or to any vehicle cycle person goods or things in or using or being conveyed along the tunnel or any persons employed on or in connection with the tunnel caused by or attributable to—

(a) the dredging and deepening (including any necessary breaking up of rock or other hard material) of the part of the bed and foreshore of the river (in this section called "the specified part of the bed of the river") which lies immediately over any part of the tunnel or within the limits of deviation of Works Nos. 2 3 and 4 authorised by this Act so as to provide from high-water mark on the north side of the river to high-water mark on the south side of the river a depth of fifty feet below the level of low water at ordinary spring tides which level is 7.08 feet below Ordnance datum;

(b) the dredging and deepening (including any necessary breaking up of rock or other hard material) to any depth in any part of the bed or foreshore of the river other than the specified part of the bed of the river:

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(c) the removal in the course of carrying out dredging and deepening to the depth specified in paragraph (a) of this subsection of any boulder block of stone or rock or obstruction which may be partly above and partly below that depth;

nor shall any part of the tunnel or any of the works and conveniences connected therewith be constructed or placed in such position or of such dimension or otherwise as to prevent the commissioners from dredging and deepening the river as aforesaid:

- (4) The Councils shall not construct any permanent shafts openings or other works of any description whatsoever on the bed or foreshore of the river beyond the commissioners' deep water quay or river line:
- (5) Nothing in this Act shall authorise or empower the Councils without the previous consent of the commissioners to embank encroach upon or interfere with any part of the bed and foreshore or banks of the river except as is expressly authorised by this Act:
- (6) (a) Prior to the commencement of the construction of the tunnel the Councils shall deliver to the commissioners for their use longitudinal and cross sections in duplicate of so much of the tunnel as will be situate under the bed and foreshore of the river or under the said properties numbered 118 and 119 with a plan in duplicate showing the lines on which the sections are taken;

(b) Prior to the commencement of—

(i) all or any temporary works to be executed in or under the bed and foreshore or banks of or adjoining the river; or

(ii) Work No. 5A authorised by this Act;

the Councils shall submit to the commissioners for their approval and deliver to them for their use plans sections and specifications in duplicate of such temporary works or of the said Work No. 5A;

(c) None of the said temporary works in or under the bed and foreshore or banks of or adjoining the river or the said Work No. 5A shall be commenced until the commissioners shall have expressed in writing their approval or disapproval of the plans sections and specifications thereof Provided that such approval shall not be unreasonably withheld and that if the commissioners fail to signify their approval or disapproval of such plans sections and specifications within two months after the receipt



thereof they shall be deemed to have approved thereof:

- (7) The Councils shall allow the commissioners' chief engineer and his authorised representatives to inspect and survey all or any of the works executed by the Councils under the bed and foreshore or banks of or adjoining the river or under the said properties numbered 118 119 and 122 or Work No. 5A while in course of construction and shall give all reasonable facilities for so doing and shall pay to the commissioners all reasonable expenses incurred in connection therewith:
- (8) The Councils shall not deposit any material on the bed or foreshore of the river and all material excavated by the Councils from the bed or foreshore of the river in the construction of the tunnel shall be removed by and at the expense of the Councils and shall not be allowed to fall into or to be washed into the river:
- (9) All the works and operations of the Councils shall be executed and performed so as in no way to obstruct or interfere with the free uninterrupted and safe navigation of the river or with the traffic thereon and if any such obstruction or interference shall be caused or take place the Councils shall pay to the commissioners if injuriously affected thereby or to the owner of any vessel or other person injuriously affected thereby who claims to be so affected compensation in respect thereof:
- (10) The Councils shall upon reasonable notice in writing from the commissioners so to do remove any temporary works and materials for temporary works which may have been placed in the river by the Councils and are no longer in use and in any event within one year after completion of the construction of the tunnel and if the Councils fail so to do the commissioners may remove the same and charge the Councils jointly and severally with the expense of so doing and the Councils shall forthwith repay to the commissioners the expense so incurred:
- (11) All responsibility in connection with the tunnel and all or any of the works (both temporary and permanent) connected therewith (whether of construction or maintenance) and for damage occasioned thereby shall be and remain with the Councils and the commissioners shall not be liable for any damage or injury to the tunnel or any of such works resulting from any of the operations of the commissioners for

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the improvement or maintenance of the river or otherwise or from vessels sunk in the river or from sunken vessels being lifted destroyed or otherwise dealt with in the river or from any cause whatever Provided that nothing in this subsection shall exonerate the commissioners from liability to the Councils for any such damage or injury which may be caused by negligence or improper working on the part of the commissioners their officers servants agents or contractors nor for damage or injury arising from dredging and deepening (otherwise than in connection with breaking up of hard material or lifting destroying or otherwise dealing with any vessels sunk in the river) the specified part of the bed of the river to a greater depth than specified or referred to in subsection (3) (a) of this section:

- (12) (a) If in exercise of the powers conferred by this Act the Councils require the removal of the screws or other fastenings of any moorings in the river or if in the execution of any works by the Councils any of such screws or other fastenings are in the opinion of the commissioners rendered insecure the Councils shall pay to the commissioners a sum equal to the whole of the cost and expense incurred by the commissioners in connection with the putting down and the taking up of the said moorings unless in the case of any such screw or other fastening being so rendered insecure the commissioners shall instead of removing the said moorings put down other screws or fastenings in the place of any so rendered insecure in which case the Councils shall pay to the commissioners the whole of the cost and expense incurred by the commissioners in connection with the taking up and putting down of every screw and fastening so rendered insecure and the putting down of every new screw or fastening;

(b) If the commissioners shall think it desirable in consequence of the construction or the use of the tunnel or any part thereof to remove or to take up and relay any existing moorings of the commissioners in the river the Councils shall on demand pay to the commissioners the cost incurred by them in removing or taking up and relaying such moorings:

- (13) In the exercise of the powers of this Act the Councils shall not in any way injure or damage the commissioners' Howdon yard and its appurtenances or obstruct or interfere with the working thereof or the road or river access thereto:

(14) On the completion of the tunnel the Councils shall supply to the commissioners without payment a plan on a scale of not less than one inch to 208.33 feet and longitudinal sections and cross sections on scales of not less than one-eighth of an inch to one foot showing the situation and levels of Works Nos. 1 2 3 4 and 5A authorised by this Act and of all other permanent works (if any) constructed by the Councils under the bed and foreshore of the river or under the said properties numbered 118 119 and 122 and on under or in connection with the said Work No. 5A:

(15) Any difference which shall arise between the Councils and the commissioners under any provisions of this section (other than subsection (1) thereof) shall be referred to and determined by arbitration:

(16) If a joint committee of the Councils shall be appointed pursuant to the section of this Act of which the marginal note is "Appointment and powers of joint committee" the provisions of this section shall have effect as if the expression "the Councils" included the joint committee:

(17) Except as expressly provided by this Act nothing in this Act shall prejudice or derogate from the estates rights interests privileges liberties or franchises of the commissioners or prohibit defeat alter or diminish any power authority or jurisdiction which at the time of the passing of this Act the commissioners did or might lawfully claim use or exercise under and by virtue of the Tyne Improvement Acts 1850 to 1934.

54. No claim shall be made by the Councils or either of them against the owner of any vessel or against any other person in respect of any damage occasioned to the tunnel or any works of the Councils constructed under the powers of this Act by such vessel or by anything done or happening on or from such vessel in connection with or in the course of the use or navigation thereof unless such damage shall be occasioned by negligence or wilful misconduct.

As to claims against owners of vessels and others.

55.—(1) If the Tyne Improvement Commissioners shall have kept their ferries in a proper state of repair and have maintained efficient services thereon and within five years from the opening for traffic of Work No. 2 Work No. 3 or Work No. 4 authorised by this Act the said commissioners shall by notice in writing to the Councils allege that the revenues received by the said commissioners from their ferries

Compensation for injury to certain ferries.

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—cont.

have been reduced as a result of any such opening the question shall failing agreement between the said commissioners and the Councils be referred to arbitration.

(2) If it is agreed or the arbitrator shall determine that the said revenues have been reduced as a result of any such opening the Councils shall make compensation to the said commissioners for the loss sustained and to be sustained by them as a result of any such opening and the amount of the compensation to be paid by the Councils to the said commissioners shall failing agreement be settled by the arbitrator.

(3) If a joint committee of the Councils shall be appointed pursuant to the section of this Act of which the marginal note is "Appointment and powers of joint committee" the provisions of this section shall have effect as if the expression "the Councils" included the joint committee.

(4) In this section the ferries of the said commissioners mean the ferries known respectively as the direct ferry the Market Place ferry and the Whitehill Point ferry.

As to persons employed in connection with ferry undertaking of Tyne Improvement Commissioners.

56.—(1) In this section—

"the commissioners" means the Tyne Improvement commissioners;

"the opening date" means the date on which Work No. 2 Work No. 3 or Work No. 4 authorised by this Act is opened for traffic;

"existing officer" means a person who immediately before the passing of this Act was wholly or mainly employed by the commissioners in connection with their ferry services;

"the Councils" shall include any joint committee of the Councils appointed pursuant to the section of this Act of which the marginal note is "Appointment and powers of joint committee."

(2) If as a result of the opening for traffic of Work No. 2 Work No. 3 or Work No. 4 authorised by this Act the commissioners shall curtail or discontinue their ferry services or any of them any existing officer who in consequence of such curtailment or discontinuance suffers direct pecuniary loss by reason of the determination of his appointment or the diminution of his emoluments otherwise than for misconduct shall unless provision for his compensation for that loss is made by or under any other enactment for the time being in force be entitled to receive compensation for that loss from the Councils.

(3) An existing officer who at any time within five years after the opening date relinquishes office by reason of his

having been required to perform duties which are not analogous to or which are an unreasonable addition to those which he was required to perform immediately before that date shall be deemed for the purposes of this section to have had his office determined in consequence of such curtailment or discontinuance as aforesaid and unless the contrary is shown to have suffered direct pecuniary loss in consequence of such curtailment or discontinuance by reason of such determination.

(4) An existing officer whose appointment is determined or whose emoluments are reduced within five years after the opening date because his services are not required or his duties are diminished (no misconduct being established) shall be deemed unless the contrary is shown to have suffered direct pecuniary loss in consequence of such curtailment or discontinuance as aforesaid.

(5) In determining the compensation payable to any person who becomes entitled to compensation in pursuance of this section the provisions of the Fourth Schedule to the Act of 1933 shall apply with the following and any other necessary modifications:—

- (a) as if service with the commissioners were service with a local authority;
- (b) any reference in that schedule to a scheme or order shall be construed as a reference to this Act;
- (c) any reference in that schedule to the local authority or the clerk of the authority shall be construed as a reference to the Councils or the respective clerks of the Councils (as the case may be).

57. For the protection of the Newcastle and Gateshead Water Company (in this section referred to as "the company") the following provisions shall unless otherwise agreed in writing between the company and the Councils apply and have effect (that is to say):—

For protection of Newcastle and Gateshead Water Company.

- (1) In this section the expression "apparatus" means mains pipes valves hydrants plugs stopcocks and other works and apparatus of the company;
- (2) The company shall not be liable for any damage caused to the tunnel Work No. 2 by this Act authorised or any works connected therewith or to any persons animals vehicles or property in the said tunnel or passing along through or otherwise using the same by reason of the escape from whatsoever cause other than any future act or the negligence of the company of water from any apparatus for the

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time being situate under or over the said tunnel or any such work as aforesaid or within a distance of one hundred yards on either side measured laterally on a horizontal plane from the centre line of the said tunnel or any such work and the Councils shall indemnify the company against all claims demands proceedings costs damages and expenses which may be made or taken against or recovered from or incurred by the company by reason or in consequence of any such escape of water:

- (3) Notwithstanding the stopping up temporarily or permanently of any road or street or part of a road or street under the powers of the sections of this Act of which the marginal notes are respectively "Stopping up of roads" "Power to prevent access to or from certain works" and "Power temporarily to stop up or interfere with streets" or the closing of the tunnel or any work forming part of the tunnel or any part of the tunnel or such work under the powers of the section of this Act of which the marginal note is "As to closing tunnel and works" the company their engineers and workmen and others in their employ shall at all times have such rights of access to all or any apparatus situate in or under any such road street tunnel or work or part of a road street tunnel or work as they had immediately before such stopping up or closing and shall be at liberty to execute and do all such works and things in upon or under such road street tunnel or work or part of a road street tunnel or work as may be necessary for inspecting repairing maintaining renewing or removing such apparatus:

Provided that this subsection shall not apply in any case in which any road or street or part of a road or street is permanently stopped up and the value of the apparatus therein or thereunder is paid by the Councils pursuant to subsection (10) of this section or such apparatus is replaced by proper and sufficient substituted apparatus by or at the cost of the Councils:

- (4) If any wall barrier palisade hoarding bar post or other erection (each of which is in this subsection included in the term "structure") erected by the Councils under the powers of either of the sections of this Act of which the marginal notes are respectively "Power to prevent access to or from certain works"

and " Power temporarily to stop up or interfere with streets " is situate over any apparatus laid or placed before the erection of such structure and the company give to the Councils notice in writing of their desire to obtain access to such apparatus the Councils shall either remove such structure or so much thereof as shall be required to be removed in order to afford such access or (if the Councils determine not to remove such structure or such part thereof) bear any additional expenses due to the existence of such structure which may be reasonably incurred by the company in obtaining such access :

- (5) The provisions of the section of this Act of which the marginal note is " Alteration of position of water gas and other pipes " shall in their application to the company and the apparatus be read and have effect subject to the following modifications :—

(i) the period of twenty-one days shall be substituted for the period of fourteen days mentioned in subsection (2) of that section and (except in cases of emergency) notice shall be given by the Councils to the company under the said subsection (2) in every case in which the Councils propose to execute any work within one hundred feet measured in any direction from any apparatus ;

(ii) the period of fourteen days shall be substituted for the period of seven days mentioned in subsection (3) of that section ;

(iii) the notice referred to in subsection (2) of that section shall be accompanied by plans sections and descriptions of the work proposed to be executed by the Councils and the company may within fourteen days after the receipt of such plans sections and descriptions object thereto or make reasonable requirements with respect thereto or to the manner in which the work to which such plans sections and descriptions relate is proposed to be executed Any difference between the Councils and the company with respect to such plans sections or descriptions or the manner of execution of such work shall be settled by arbitration Any such work shall be executed in strict accordance with such plans sections and descriptions as approved by the company or settled by arbitration Provided that if the company do not within fourteen days after the receipt of any such plans sections and descriptions

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intimate in writing to the Councils their disapproval thereof or make any requirement with respect thereto they shall be deemed to have approved the same; and

(iv) if the company object to any directions given by the Councils under the proviso to subsection (3) of the said section the matter in difference shall be referred to arbitration and the decision of the arbitrator shall be final and binding:

(6) In addition to any rights exercisable by the company under the provisions of the said section of this Act of which the marginal note is "Alteration of position of water gas and other pipes" and of subsection (5) of this section the company shall be entitled to execute such works as may be reasonably necessary in consequence of any of the works of the Councils under this Act for supporting or protecting any apparatus situate in or under any street or road affected by the works by this Act authorised or the operations of the Councils or for maintaining the continuity of the supply of water by means of such apparatus and if it shall be reasonably necessary so to do the company may substitute steel pipes encased in cement concrete for so much of any main or pipe as will be situate in or under such street or road and for a distance of ten feet on either side thereof and the Councils shall repay to the company the reasonable cost incurred by them in so doing:

(7) In addition to any work which may be executed by the Councils or the company under the provisions of the said section of this Act of which the marginal note is "Alteration of position of water gas and other pipes" the Councils—

(a) shall provide and lay in or under any road or street such mains pipes valves stopcocks and works or apparatus or make such additions to or enlargements of any existing apparatus situate therein or thereunder as the company may reasonably require in substitution for any apparatus situate in or under any road or street stopped up under the powers of this Act; and

(b) if by reason or in consequence of the execution by the Councils of any works under the powers of this Act any apparatus which before such execution was situate in or under the footway of any road or street or at the side of any road or street becomes situate under the carriageway thereof the Councils shall upon receipt of notice in



writing from the company requiring them so to do relay such apparatus so as to be situate in or under the footway or the verge of the road or street as altered and at such depth as the company may reasonably require:

Provided that when making any requirement under paragraph (a) or giving any notice under paragraph (b) of this subsection the company may intimate in writing to the Councils their intention themselves to execute the work to which the requirement or notice relates and in any such case the company may execute the same and the reasonable costs and expenses of and incidental to the execution of such work by the company shall on demand be repaid to them by the Councils:

- (8) If in the exercise of the powers of this Act the Councils propose to raise or lower the level of any land street road or way or to alter the position of any apparatus so as to leave over any apparatus a covering greater or less than the existing covering the company may notwithstanding anything contained in subsection (4) of the said section of this Act of which the marginal note is "Alteration of position of water gas and other pipes" and without prejudice to their rights and powers under that subsection relay such apparatus in such position and at such level so that the covering shall be not less nor greater than the existing covering and the reasonable expenses incurred by the company in so doing shall on demand be repaid to them by the Councils:
- (9) Notwithstanding anything contained in the section of this Act of which the marginal note is "no mains or pipes to be laid in tunnel" the company shall be entitled for the purposes of—
- (i) laying down maintaining inspecting repairing renewing or removing any apparatus; and
  - (ii) laying down maintaining inspecting repairing renewing or disconnecting any service pipes between any apparatus and any premises supplied or to be supplied with water therefrom;
- to exercise from time to time the like rights of opening and breaking up any land or any street or road or part of a street or road and the carriageways and footways of any of the works by this Act authorised as they would be entitled to exercise if the said section had not been enacted:
- (10) Where by reason or in consequence of the exercise of any of the powers of this Act any apparatus exist-

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ing on the twenty-seventh day of November nineteen hundred and forty-five is rendered derelict or unnecessary the Councils shall pay to the company the value of such apparatus so rendered derelict or unnecessary unless substituted apparatus be provided. Such value shall in case of difference between the company and the Councils be determined by arbitration in manner hereinafter provided:

(11) If by reason or in consequence of the execution user or failure of any works under or the exercise of any of the powers of this Act—

(a) any damage to any apparatus or any property of the company or any interruption in the supply of water by the company shall be caused the Councils shall bear and pay the cost reasonably incurred by the company in making good such damage and shall—

(i) make reasonable compensation to the company for any loss sustained by them; and

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

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

(b) the costs and expenses incurred by the company in laying down or in maintaining, repairing or renewing any apparatus are increased the Councils shall repay to the company the amount by which such costs and expenses are so increased; or

(c) any water of the company shall be lost the Councils shall pay to the company the value of the water so lost; or

(d) the company shall suffer any loss of revenue the Councils shall repay to the company the amount of the revenue so lost:

(12) The reasonable expense of all repairs and renewals of any apparatus or any works in connection therewith which may be rendered reasonably necessary by or in consequence of—

(a) the acts or defaults of the Councils or either of them or the contractors, agents, workmen or servants of them or either of them or any person in their employ or any of them; or

(b) any subsidence resulting from the works of the Councils whether during construction of such works or within a period of twelve months after the date or respective dates of the completion thereof;

shall be borne and paid by the Councils:

(13) The Councils shall bear and pay to the company the amount of any expenses reasonably incurred by the company in or in connection with—

(a) the cutting off of any apparatus from any other apparatus and the provision and connecting of any new or substituted apparatus with any existing apparatus rendered necessary by reason or in consequence of the execution of any works under the powers of this Act; or

(b) the removal or any alteration of any communication pipes or supply pipes rendered necessary by reason or in consequence of such execution;

and shall indemnify the company against all claims and demands by the owner of any such communication pipe or supply pipe or by the owners or occupiers of premises supplied by means thereof:

(14) The company may if they deem fit employ watchmen and inspectors to watch and inspect any work whereby any apparatus or any property of the company will or may be interfered with or affected during the execution of such work and the reasonable expense incurred by the company in the employment of such watchmen and inspectors shall be borne by the Councils and be paid by them on demand to the company:

(15) If any question or difference shall arise between the Councils and the company under this section (other than a difference as to the meaning or construction of this section) such question or difference shall be settled by arbitration:

(16) The provisions of this section shall be in addition to and not in derogation of any other provisions of this Act or any enactment incorporated therewith to the benefit of which the company would have been entitled if this section had not been enacted.

58. For the protection of the Sunderland and South Shields Water Company (in this section referred to as "the company") the following provisions shall unless otherwise agreed

For protection of Sunderland and South Shields Water Company.

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in writing between the company and the Councils apply and have effect (that is to say):—

- (1) In this section “ apparatus ” means mains pipes valves hydrants plugs syphons tubes stopcocks or other works or apparatus of the company:
- (2) The company shall not be liable for any damage caused to the tunnel Work No. 2 by this Act authorised or any works connected therewith or to any persons animals vehicles or property in the said tunnel or passing along through or otherwise using the same by reason of the escape from whatsoever cause other than any future act or the negligence of the company of water from any apparatus for the time being situate under or over the said tunnel or any such work as aforesaid or within a distance of one hundred yards on either side measured laterally on a horizontal plane from the centre line of the said tunnel or any such work and the Councils shall indemnify the company against all claims demands proceedings costs damages and expenses which may be made or taken against or recovered from or incurred by the company by reason or in consequence of any such escape of water:
- (3) Notwithstanding the stopping up temporarily or permanently of any road or street or part of a road or street under the powers of the sections of this Act of which the marginal notes are respectively “ Stopping up of roads ” “ Power to prevent access to or from certain works ” and “ Power temporarily to stop up or interfere with streets ” or the closing of any works forming part of the tunnel under the powers of the section of this Act of which the marginal note is “ As to closing tunnel and works ” the company their engineers and workmen and others in their employ shall at all times have such rights of access to all or any apparatus situate in or under any such road or street or part of a road or street or works as they had immediately before such stopping up or closing and where the company have such right of access as aforesaid they shall be at liberty to execute and do all such works and things in upon or under such road or street or part of a road or street or works as may be necessary for inspecting repairing maintaining renewing or removing such apparatus or laying new apparatus:

Provided that this subsection shall not apply to any road or street or part of a road or street permanently stopped up where the value of the

apparatus therein or thereunder is paid by the Councils to the company pursuant to subsection (6) of this section or where such apparatus is replaced by proper and sufficient substituted apparatus by or at the cost of the Councils:

- (4) If any wall barrier palisade hoarding bar post or other erection (each of which is in this section included in the term "structure") erected by the Councils under the powers of the sections of this Act of which the marginal notes are respectively "Power to prevent access to or from certain works" and "Power temporarily to stop up or interfere with streets" is situate over any apparatus laid or placed before the erection of such structure and the company give to the Councils notice in writing of their desire to obtain access to such apparatus the Councils shall either remove such structure or so much thereof as shall be required to be removed in order to afford such access or (if the Councils determine not to remove such structure or such part thereof) bear any additional expenses due to the existence of such structure which may be reasonably incurred by the company in obtaining such access:
- (5) Notwithstanding anything contained in the section of this Act of which the marginal note is "Alteration of position of water gas and other pipes" if in the exercise of any of the powers of this Act the Councils—

(a) lower the level of any land street road or way or any part thereof or alter the position of any apparatus so as to leave over any apparatus situate thereunder a less depth of cover than three feet where the covering now existing is not less than three feet or less than the existing covering where the same is less than three feet and do not in any such case protect such apparatus from frost or injury to the reasonable satisfaction of the engineer of the company; or

(b) raise the level of any land street road or way or any part thereof or alter the position of any apparatus to leave over any apparatus situate thereunder a greater depth of cover than four feet where the covering now existing does not exceed four feet or more than the existing covering where the same exceeds four feet and do not provide

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special means of access to the apparatus to such reasonable satisfaction as aforesaid;

the company may lower such apparatus to a depth not exceeding three feet or the existing cover whichever is the less or raise such apparatus to a depth not less than four feet or the existing depth whichever is the greater (as the case may be) below the surface of the land street road or way and the Councils shall repay to the company the expense reasonably incurred by them in so doing:

(6) Where by reason or in consequence of the exercise of any of the powers of this Act any apparatus existing on the twenty-seventh day of November nineteen hundred and forty-five is rendered derelict or unnecessary the Councils shall unless proper and sufficient substituted apparatus be provided by or at the cost of the Councils pay to the company the value of such apparatus so rendered derelict or unnecessary and the cost reasonably incurred by the company in the cutting off of such apparatus from other apparatus:

(7) The provisions of the section of this Act of which the marginal note is "Alteration of position of water gas and other pipes" shall in their application to the company be read and have effect subject to the following modifications:—

(i) the period of twenty-one days shall be substituted for the period of fourteen days mentioned in subsection (2) of that section; and

(ii) the period of fourteen days shall be substituted for the period of seven days mentioned in subsection (3) of that section; and

(iii) at the same time as the Councils give to the company any notice in accordance with subsection (2) of the said section the Councils shall deliver to the company a plan section and description of the alteration or work to which the notice relates describing the proposed manner of executing the alteration or work and the company may at any time within fourteen days after receipt of such plan section and description by notice in writing to the Councils intimate their disapproval of the proposed manner of executing the alteration or work or make any reasonable requirements with respect to such plan section or description

Any difference between the company and the Councils under this subsection shall be determined by arbitration as hereinafter provided:

Provided that if the company shall not within the said period of fourteen days give any such notice in writing to the Councils as aforesaid they shall be deemed to have approved the plan section and description as submitted. The Councils shall not execute such alteration or work except in strict accordance with the said plan section and description as so approved by the company or settled by arbitration:

- (8) In addition to any rights exercisable by them under the provisions of the said section of this Act of which the marginal note is "Alteration of position of water gas and other pipes" the company shall be entitled to execute such works as may be reasonably necessary in consequence of any works of the Councils under this Act for supporting or protecting any apparatus situate in or under any street or road affected by the works by this Act authorised or for maintaining the continuity of the supply of water by means of such apparatus and the Councils shall repay to the company the reasonable cost incurred by them under the provisions of this subsection:
- (9) If by reason or in consequence of the execution of the works by this Act authorised or anything done thereunder it shall be reasonably necessary for the company to lay a second service main in any street or part of a street in which the company have a single service main from which supplies of water are afforded to premises situate on both sides of such street the Councils shall pay to the company the reasonable cost incurred by them in providing and laying such second service main and the service pipes necessary for connecting that main with the premises to be supplied by means thereof:
- (10) If by reason or in consequence of the execution of the works by this Act authorised the carriageway of any street or road is widened so as to extend over any apparatus which before such widening was situate under the footway or otherwise at the side of such street or road the company may relay such apparatus under the footway or the verge of the widened highway and the Councils shall repay to the company the reasonable cost incurred by them under the provisions of this subsection:

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(11) If by reason or in consequence of the execution of the works by this Act authorised (other than any works under subsections (9) or (10) of this section) any damage to any apparatus or property of the company or any interruption in the supply of water by the company shall be caused the Councils shall bear and pay the cost reasonably incurred by the company in making good such damage and—

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

(b) indemnify the company against all claims demands proceedings costs damages and expenses which may be made or taken against or recovered from or incurred by the company by reason or in consequence of any such damage or interruption:

(12) The reasonable expense of all repairs and renewals of any apparatus or any works in connection therewith which may be rendered reasonably necessary by or in consequence of—

(a) the acts or defaults of the Councils their contractors agents workmen or servants or any person in the employ of them or any of them; or

(b) any subsidence resulting from the works of the Councils whether during the construction of such works or within a period of twelve months after the date or the respective dates of the completion thereof;

shall be borne and paid by the Councils:

(13) The Councils shall bear and pay to the company the amount of any expenses reasonably incurred by the company in or in connection with—

(a) the cutting off of any apparatus from any other apparatus and the connecting of any new or substituted apparatus with any existing apparatus rendered necessary by reason or in consequence of the execution of the works by this Act authorised; and

(b) the removal or any alteration of any communication pipes or supply pipes rendered necessary by reason or in consequence of such execution;

and shall indemnify the company against all claims and demands by the owner of any such communication pipe or supply pipe or by the owners or occupiers of premises supplied by means thereof:



- (14) The Councils shall bear and pay to the company the expenses reasonably incurred by them in the employment of watchmen or inspectors to watch and inspect the execution by the Councils under the powers of this Act of any work whereby any apparatus will or may be interfered with or affected:
- (15) Notwithstanding anything contained in the section of this Act of which the marginal note is "No mains or pipes to be laid in tunnel" the company shall be entitled for the purposes of—
- (i) laying down maintaining inspecting repairing renewing or removing any apparatus; and
  - (ii) laying down maintaining inspecting repairing renewing or disconnecting any service pipes between any apparatus and any premises supplied or to be supplied therefrom;
- to exercise the like rights of opening and breaking up any land street or road or part of a street or road and the carriageway and footways of any of the works by this Act authorised as they would be entitled to exercise if the said section had not been enacted:
- (16) If any question or difference shall arise between the Councils and the company under this section (other than a difference as to the meaning or construction of this section) such question or difference shall be settled by arbitration:
- (17) The provisions of this section shall except as otherwise expressly provided be in addition to and not in derogation of any other provisions of this Act or any enactment incorporated therewith to the benefit of which the company would have been entitled if this section had not been enacted.

**59.** Notwithstanding anything contained in this Act or shown on the deposited plans the following provisions for the protection of the Newcastle-upon-Tyne and Gateshead Gas Company (in this section referred to as "the company") shall unless otherwise agreed in writing between the company and the Councils apply and have effect (that is to say):—

For protection of Newcastle-upon-Tyne and Gateshead Gas Company.

- (1) In this section the expression "apparatus" means mains pipes valves hydrants plugs stopcocks syphons and other works and apparatus of the company:
- (2) The Councils shall not under the powers of this Act—
  - (a) enter upon take or use any part of the surface of the lands of the company numbered respectively 3 and 5 in the borough of Jarrow on the deposited plans; or

PART II.  
—cont.

(b) purchase or take any easements or rights of using the subsoil or under-surface of the said lands of the company other than such easements or rights of using the subsoil as may be necessary for the construction maintenance and user of Work No. 2 by this Act authorised:

- (3) (a) Not less than twenty-eight days before commencing to execute any part of so much of the said Work No. 2 as will be situate under any part of the said lands or extend for a distance of thirty yards on either side thereof the Councils shall deliver to the company a plan section and specification of such portion of the said work showing the manner in which it is proposed to execute the same and all subsidiary works proposed to be constructed in connection therewith;

(b) At any time within fourteen days after the receipt of such plan section and specification the company may give notice in writing to the Councils intimating their disapproval of the said plan section and specification and may by any such notice make reasonable requirements with respect to such plan section and specification for the purpose of affording support or protection for or for preventing damage or injury to the works gasholders or property of the company. Provided that if the company disapprove the said plan section and specification or make any requirement with respect thereto with which the Councils are not willing to comply the matter in difference shall be settled by arbitration. Provided also that if the company do not within fourteen days after the receipt of the said plan section and specification intimate in writing to the Councils their disapproval thereof or make any requirement with respect thereto they shall be deemed to have approved the plan section and specification as submitted to them;

(c) The Councils shall not execute any part of the said portion of the said Work No. 2 except in strict accordance with the said plan section and specification as approved by the company or settled by arbitration and under the supervision of the engineer of the company if after reasonable notice in writing from the Councils such supervision be given:

- (4) The fact that any work or thing has been done by the Councils in accordance with any plan section or

specification approved by the company or in accordance with any requirement of or under the supervision of the engineer of the company shall not relieve the Councils from any liability or affect any claim of the company for injury to their works or property:

- (5) Notwithstanding the stopping up temporarily or permanently of any road or street or part of a road or street under the powers of the sections of this Act of which the marginal notes are respectively "Stopping up of roads" "Power to prevent access to or from certain works" and "Power temporarily to stop up or interfere with streets" or the closing of the tunnel or any work forming part of the tunnel or any part of the tunnel or such work under the powers of the section of this Act of which the marginal note is "As to closing tunnel and works" the company their engineers and workmen and others in their employ shall at all times have such rights of access to all or any apparatus situate in or under any such road street tunnel or work or part of a road street tunnel or work as they had immediately before such stopping up or closing and shall be at liberty to execute and do all such works and things in upon or under such road street tunnel or work or part of a road street tunnel or work as may be necessary for inspecting repairing maintaining renewing or removing such apparatus:

Provided that this subsection shall not apply in any case in which any road or street or part of a road or street is permanently stopped up and the value of the apparatus therein or thereunder is paid by the Councils to the company pursuant to subsection (7) of this section or such apparatus is replaced by proper and sufficient substituted apparatus by or at the cost of the Councils:

- (6) If any wall barrier palisade hoarding bar post or other erection (each of which is in this subsection included in the term "structure") erected by the Councils under the powers of either of the sections of this Act of which the marginal notes are respectively "Power to prevent access to or from certain works" and "Power temporarily to stop up or interfere with streets" is situate over any apparatus laid or placed before the erection of such structure and the company give to the Councils notice in writing of their desire to obtain access to such apparatus the Councils shall

PART II.  
—cont.

either remove such structure or so much thereof as shall be required to be removed in order to afford such access or (if the Councils determine not to remove such structure or such part thereof) bear any additional expenses due to the existence of such structure which may be reasonably incurred by the company in obtaining such access:

- (7) Where by reason or in consequence of the exercise of any of the powers of this Act any apparatus existing on the twenty-seventh day of November nineteen hundred and forty-five is rendered derelict or unnecessary the Councils shall pay to the company the value of such apparatus so rendered derelict or unnecessary unless substituted apparatus be provided. Such value shall in case of difference between the company and the Councils be determined by arbitration in manner hereinafter provided:
- (8) Notwithstanding anything contained in the section of this Act of which the marginal note is "Alteration of position of water gas and other pipes" if in the exercise of any of the powers of this Act the Councils—

(a) lower the level of any land street road or way in or under which any apparatus is situate or alter the position of any apparatus so as to leave over such apparatus a less depth of covering than three feet where the covering now existing is not less than three feet or less than the existing covering where the same is less than three feet and do not in any such case protect such apparatus from frost or injury to the reasonable satisfaction of the engineer of the company the company may lower such apparatus to a depth not exceeding three feet or the existing covering whichever is the less and the Councils shall repay to the company the expense reasonably incurred by them in so doing; or

(b) raise the level of any land street road or way in or under which any apparatus is situate or alter the position of any apparatus so as to leave over such apparatus a greater depth of covering than the existing covering and do not to the reasonable satisfaction of the engineer of the company provide special means of access to such apparatus the Councils shall repay to the company any additional expense which may from time to time be

incurred by the company in obtaining access to such apparatus by reason or in consequence of such increase of covering as aforesaid:

PART II.  
—cont.

(9) The provisions of the section of this Act of which the marginal note is "Alteration of position of water gas and other pipes" shall in their application to the company and the apparatus be read and have effect subject to the following modifications:—

(i) notice shall (except in cases of emergency) be given by the Councils to the company under subsection (2) of that section (as amended by this section) in every case in which the Councils propose to execute any work in under or over—

(a) any street or road in which any apparatus is situate; or

(b) any land within thirty feet of any apparatus;

(ii) the period of twenty-one days shall be substituted for the period of fourteen days mentioned in the said subsection (2);

(iii) the period of fourteen days shall be substituted for the period of seven days mentioned in subsection (3) of that section;

(iv) the notice referred to in subsection (2) of that section shall be accompanied by plans sections and specifications of the work proposed to be executed by the Councils and the company may within fourteen days after the receipt of such plans sections and specifications object thereto or make reasonable requirements with respect thereto or to the manner in which the work to which such plans sections and specifications relate is proposed to be executed. Any difference between the Councils and the company with respect to such plans sections and specifications or the manner of execution of such work shall be settled by arbitration. Any such work shall be executed in strict accordance with such plans sections and specifications as approved by the company or settled by arbitration. Provided that if the company do not within fourteen days after the receipt of any such plans sections and specifications intimate in writing to the Councils their disapproval thereof or make any requirement with respect thereto they shall be deemed to have approved the same; and

PART II.  
—cont.

(v) if the company object to any directions given by the Councils under the proviso to subsection (3) of the said section the matter in difference shall be referred to arbitration and the decision of the arbitrator shall be final and binding:

(10) In addition to any rights exerciseable by the company under the provisions of the said section of this Act of which the marginal note is "Alteration of position of water gas and other pipes" and of subsection (9) of this section the company shall be entitled to execute such works as the engineer of the company shall deem necessary for supporting or protecting any apparatus situate in or under any street or road affected by the works by this Act authorised or the operations of the Councils or for maintaining the continuity of the supply of gas by means of such apparatus and if it be deemed necessary by the said engineer so to do the company may substitute steel pipes encased in cement concrete for so much of any main or pipe as will be situate in or under such street or road and for a distance of ten feet on either side thereof and the Councils shall repay to the company the reasonable cost incurred by them in so doing:

(11) In addition to any work which may be executed by the Councils or the company under the provisions of the said section of this Act of which the marginal note is "Alteration of position of water gas and other pipes" the Councils—

(a) shall provide and lay in or under any road or street such mains pipes valves stopcocks and works or apparatus or make such additions to or enlargements of any existing apparatus situate therein or thereunder as the company may reasonably require in substitution for any apparatus situate in or under any road or street stopped up under the powers of this Act; and

(b) if by reason or in consequence of the execution by the Councils of any works under the powers of this Act any apparatus which before such execution was situate in or under the footway of any road or street or at the side of any road or street becomes situate under the carriageway thereof the Councils shall upon receipt of notice in writing from the company requiring them so to do relay such apparatus so as to be situate in or under the footway or the verge of the road or street as altered and at such depth as the company may reasonably require:

Provided that when making any requirement under paragraph (a) or giving any notice under paragraph (b) of this subsection the company may intimate in writing to the Councils their intention themselves to execute the work to which the requirement or notice relates and in any such case the company may execute the same and the reasonable costs and expenses of and incidental to the execution of such work by the company shall on demand be repaid to them by the Councils:

(12) If by reason or in consequence of the execution user or failure of any works under or the exercise of any of the powers of this Act (other than any works under subsection (11) of this section)—

(a) any damage to any apparatus or any works buildings structures or property of the company or any interruption in the supply of gas by the company shall be caused the Councils shall bear and pay the cost reasonably incurred by the company in making good such damage and shall—

(i) make reasonable compensation to the company for any loss sustained by them; and

(ii) indemnify the company against all claims demands proceedings costs damages and expenses which may be made or taken against or recovered from or incurred by the company; by reason or in consequence of any such damage or interruption; or

(b) the costs and expenses incurred by the company in laying down or in maintaining repairing or renewing any apparatus are increased the Councils shall repay to the company the amount by which such costs and expenses are so increased; or

(c) any gas of the company shall be lost the Councils shall pay to the company the value of the gas so lost; or

(d) the company shall suffer any loss of revenue the Councils shall repay to the company the amount of the revenue so lost:

(13) The reasonable expense of all repairs and renewals of any apparatus or any works in connection therewith which may be rendered reasonably necessary by or in consequence of—

(a) the acts or defaults of the Councils or either of them or the contractors agents workmen or

PART II.  
—cont.

servants of them or either of them or any person in their employ or any of them in connection with the execution of works authorised by this Act or the exercise of powers conferred on the Councils by this Act; or

(b) any subsidence resulting from the works of the Councils whether during the construction of such works or within a period of twelve months after the date or respective dates of the completion thereof;

shall be borne and paid by the Councils:

(14) The Councils shall bear and pay to the company the amount of any expenses reasonably incurred by the company in or in connection with—

(a) the cutting off of any apparatus from any other apparatus and the provision and the connecting of any new or substituted apparatus with any existing apparatus rendered necessary by reason or in consequence of the execution of any works under the powers of this Act; or

(b) the removal or any alteration of any communication pipes rendered necessary by reason or in consequence of such execution;

and shall indemnify the company against all claims and demands by the owner of any such communication pipe or by the owners or occupiers of premises supplied by means thereof:

(15) The company may if they deem fit employ watchmen and inspectors to watch and inspect any work whereby any apparatus or any property of the company will or may be interfered with or affected during the execution of such work and the reasonable expense incurred by the company in the employment of such watchmen and inspectors shall be borne by the Councils and be paid by them on demand to the company:

(16) If any question or difference shall arise between the Councils and the company under this section (other than a difference as to the meaning or construction of this section) such question or difference shall be settled by arbitration:

(17) The provisions of this section shall be in addition to and not in derogation of any other provisions of this Act or any enactment incorporated therewith to the benefit of which the company would have been entitled if this section had not been enacted.



60. For the further protection of the Newcastle-upon-Tyne and Gateshead Gas Company (in this section referred to as "the company") the following provisions shall unless otherwise agreed in writing between the company and the Councils apply and have effect (that is to say):—

PART II.  
—cont.  
For further protection of Newcastle-upon-Tyne and Gateshead Gas Company.

- (1) In constructing Work No. 3 and Work No. 4 by this Act authorised the Councils shall provide in each of those works accommodation and support for a steel main of the company having an internal diameter not exceeding twelve inches:
- (2) Such accommodation and support shall be of such nature as may be agreed between the Councils and the company or in default of agreement settled by the Minister and shall be if practicable in the footway of each of the said works or in such other position as may be agreed or settled as aforesaid:
- (3) The additional cost (if any) reasonably incurred by the Councils in providing such accommodation and support shall be repaid to the Councils by the company in a single payment or in such other manner as may be agreed between the Councils and the company:
- (4) The company shall be entitled at all times to use free of charge the accommodation provided pursuant to the foregoing provisions of this section for the purpose of laying and placing therein the said twelve-inch mains with any necessary apparatus ancillary thereto and notwithstanding anything contained in the section of this Act of which the marginal note is "No mains or pipes to be laid in tunnel" the company shall have the same rights of entering upon breaking up or interfering with the said works for the purpose of inspecting repairing maintaining removing or renewing such mains and apparatus as they would be entitled to exercise if the same were laid or placed in a street or road:

Provided that—

(a) the said mains and apparatus shall conform in their design and construction with the reasonable requirements of the Councils;

(b) the company shall give to the Councils reasonable notice of their intention to commence the laying or placing of the said mains and apparatus in the said works and the Councils shall be entitled to superintend such laying or placing. The costs reasonably incurred by the Councils in such superintendence shall be repaid to them by the company;

PART II.  
—cont.

(c) except in case of emergency the company shall give to the Councils ten days' notice in writing of their intention to break up or interfere with either of the said works and shall conform with the reasonable requirements of the Councils as to the time or times at which the company may exercise the right of entering upon breaking up or interfering with the said works for the purpose of inspecting repairing maintaining removing or renewing the said mains or apparatus so as to cause as little interference as practicable with the use of the said works:

- (5) The Councils shall afford to the company all such facilities as the company may reasonably require for the purpose of connecting the said mains and apparatus with any other mains pipes or apparatus of the company:
- (6) Notwithstanding anything contained in the section of this Act of which the marginal note is "No mains or pipes to be laid in tunnel" if Works Nos. 3 and 4 by this Act authorised are not completed and open to traffic before the expiration of a period of eighteen months after the date on which Work No. 2 by this Act authorised is completed and open for traffic the consent of the Councils under the said section to the breaking up of or interference with the said Work No. 2 or the carriageways or footways thereof for the purpose of laying down therein one or two steel mains for the supply of gas in substitution for the main or mains as the case may be which would otherwise have been laid in Work No. 3 or Work No. 4 (each such main having an internal diameter not exceeding twelve inches) and any necessary apparatus ancillary thereto shall not be withheld and the provisions of subsections (1) (2) (3) (4) and (5) of this section shall so far as applicable extend and apply to the laying down user and maintenance of the said gas mains and apparatus as if the said Work No. 2 were referred to in the said provisions instead of the said Works Nos. 3 and 4:
- (7) Except as otherwise expressly provided by this section any question or difference which may arise between the Councils and the company under this section (other than any question or difference as to the meaning or construction of this section) shall be settled by arbitration.

## PART III.

## FINANCE.

61.—(1) The Councils shall have power in addition and without prejudice to their powers of borrowing under the Act of 1933 from time to time to borrow without the consent of any sanctioning authority for and in connection with the purposes mentioned in the first column of the following table the respective sums mentioned in the second column of the said table and they shall pay off all moneys so borrowed within such periods as the Councils may severally determine not exceeding those respectively mentioned in the third column of the said table:—

(1)	(2)	(3)
Purpose.	Amount.	Period for repayment calculated (except where otherwise stated) from the date or dates of borrowing.
(a) The purchase of lands and easements for the purposes of this Act.	£317,000	Sixty years.
(b) The construction of the tunnels authorised by this Act.	£2,720,000	Sixty years.
(c) The construction of approach roads and streets authorised by this Act.	£543,000	Sixty years.
(d) The diversion of the river Don authorised by this Act.	£20,000	Sixty years.
(e) The payment of the costs charges and expenses of this Act.	The sum requisite.	Five years from the passing of this Act.

(2) The provisions of Part IX of the Act of 1933 so far as they are not inconsistent with this Part of this Act shall extend and apply to money borrowed under this section as if it were borrowed under Part IX of that Act and the period fixed for the repayment of any money borrowed under this section shall as respects that money be the fixed period for the purpose of the said Part IX.

(3) To the extent that the Minister may make a payment towards the purposes (a) (b) (c) and (d) referred to in this section the powers of the Councils to borrow except under the Act of 1933 shall be reduced.

62.—(1) The Councils shall make equal contributions towards the cost of the works by this Act authorised.

Contributions  
by Councils.

(2) The Councils shall make equal contributions towards the cost of lighting ventilating draining and otherwise maintaining Works Nos. 2 2A 3 and 4 by this Act authorised.

PART III.  
—cont.

(3) Any sums provided by either of the Councils may be provided in whole or in part out of their respective county funds or county rates or other their revenues or out of moneys borrowed under the powers of this Act.

Contributions  
to cost of  
works.

**63.** Any council of any administrative county or county borough adjoining the administrative counties of Northumberland and Durham respectively or either of such last-mentioned counties or any local or road authority in either of the said last-mentioned counties or any such adjoining county with the consent of the Minister of Health may out of their county fund or general rate fund or their county rate or general rate or other their revenues make any contribution towards the cost of the works by this Act authorised.

Saving for  
powers of  
Treasury.  
2 & 3 Geo. 6.  
c. 62.  
9 Geo. 6. c. 10.  
9 & 10 Geo. 6.  
c. 58.

**64.** So long as the making of an issue of capital in the United Kingdom without the consent of the Treasury is prohibited by regulations made under the Emergency Powers (Defence) Act 1939 or under that Act as extended by any subsequent enactment including the Supplies and Services (Transitional Powers) Act 1945 or so long as the borrowing of money in Great Britain without the consent of the Treasury is prohibited by an order made under section 1 of the Borrowing (Control and Guarantees) Act 1946 it shall not be lawful to exercise the powers of borrowing conferred by this Act (other than the power of borrowing to pay the costs charges and expenses of this Act as hereinafter defined) without such consent.

Saving for  
Local  
Authorities  
Loans Act  
1945.  
8 & 9 Geo. 6.  
c. 18.

**65.** It shall not be lawful to exercise the powers of borrowing conferred by this Act otherwise than in compliance with the provisions of the Local Authorities Loans Act 1945.

## PART IV.

## MISCELLANEOUS.

Appointment  
and powers of  
joint  
committee.

**66.—(1)** A joint committee of the Councils shall be appointed under and subject to the provisions of the Act of 1933 relating to joint committees and shall have power to exercise the powers of this Act conferred upon the Councils (except those relating to the acquisition of lands and easements) and for this purpose and subject to such exception shall have power to make and carry into effect all such agreements and arrangements as under the provisions of this Act may be made and carried into effect by the Councils.

(2) Any joint committee appointed as aforesaid shall consist of ten members five members appointed by the Northumberland Council and five members appointed by the Durham Council.

(3) The joint committee shall not without the consent of the Councils authorise any alteration in the construction or design of the tunnel which will materially increase the sums which the Councils are authorised to borrow under the powers of this Act.

(4) Any two or more members of the joint committee representing the Northumberland Council or any two or more members of the joint committee representing the Durham Council may require any question relating to the carrying out of the tunnel and any alteration or modification of the approved mode of carrying out any part of the tunnel to be referred to the Councils and in that case such works alteration or modification shall not be carried into effect unless and until the same shall have been approved by the Councils or in case of difference settled by arbitration as provided by this Act.

(5) Should any vacancy arise on the joint committee in consequence of the death or incapacity or refusal to act of any member the county council whose representative he was shall nominate another person to fill such vacancy and such person shall occupy the same position and have the same power as the other members of the joint committee.

(6) A quorum of the joint committee shall be fixed by the joint committee but shall consist of at least two members from each of the Councils.

**67.**—(1) The Councils may make and enforce byelaws for the regulation control and protection of the tunnel and of persons resorting to or using the same and for the management regulation direction and control of traffic of every description using the tunnel with power to fix a speed limit for motor vehicles and to prohibit the passage of all forms of traffic or particular traffic at certain hours. Byelaws.

(2) At least one month before application is made for confirmation of any byelaw made under this section the Councils shall give to the Tynemouth Corporation notice of the intention to apply for confirmation and such notice shall be accompanied by a copy of the proposed byelaw. The Tynemouth Corporation shall be entitled to make to the confirming authority representations with respect to any such proposed byelaw.

(3) The Councils shall send a copy of every such byelaw made by them and confirmed to the Tynemouth Corporation.

**68.** As respects byelaws made under this Act the confirming authority for the purposes of section 250 of the Act of 1933 shall be the Minister. Confirming authority for byelaws.

## PART IV.

—cont.

Authentication  
and service of  
notices &c.

69.—(1) Where any notice or other document under this Act or under the Lands Clauses Acts as incorporated with this Act requires authentication by either of the Councils or of the joint committee the signature of the clerk or other duly authorised officer of such Council or of the joint committee shall be sufficient authentication.

(2) Notices and other documents required or authorised to be served or given by the Councils or either of them or by the joint committee under this Act or under any Act incorporated with this Act may be served by post or by delivering the same to or at the residences of the persons to whom they are respectively addressed or where addressed to the owner or occupier of premises by delivering the same or a true copy thereof to some person on the premises or if there is no person on the premises who can be so served by fixing the same on some conspicuous part of the premises:

Provided that—

- (a) a notice to treat given under section 18 of the Lands Clauses Consolidation Act 1845 if served by post shall be served by registered post;
- (b) in the case of a company any such notice or document shall be delivered or sent by post addressed to the secretary of the company at its registered office or at its principal office or place of business.

In proving service by post it shall be sufficient to prove that the notice or other document was properly addressed and put into the post.

(3) Any such notice as aforesaid which is required to be given to the owner or occupier of any premises may be addressed by the description of the "owner" or "occupier" of the premises (naming him) in respect of which the notice is given without further name or description.

Settlement of  
questions  
between  
Councils.

70. Any question arising between the Northumberland Council and the Durham Council under any of the provisions of this Act shall be referred to and determined by arbitration.

Recovery of  
penalties.

71. Save as otherwise by this Act expressly provided all offences against this Act and all penalties forfeitures costs and expenses imposed or recoverable under this Act or any byelaw made in pursuance thereof may be prosecuted and recovered in a summary manner. Provided that costs or expenses except such as are recoverable along with a penalty shall not be recovered as penalties but may be recovered summarily as civil debts.

72. The Minister and the Minister of Health may hold such inquiries as they may consider necessary in regard to the exercise of any powers conferred upon them by or the giving of consents under this Act and section 290 of the Act of 1933 shall apply accordingly.

PART IV.  
—cont.  
Inquiries by  
Ministers.

73. Where under this Act any question or dispute is to be referred to an arbitrator or determined by arbitration (other than questions or disputes to which the provisions of the Lands Clauses Acts apply) then unless other provision is made the reference shall be to an arbitrator to be agreed upon between the parties in difference or failing such agreement to be appointed by the President of the Institution of Civil Engineers and the provisions of the Arbitration Act 1889 and the Arbitration Act 1934 shall apply accordingly.

Arbitration.

52 & 53 Vict.  
c. 49.  
24 & 25 Geo. 5.  
c. 14.

74. The provisions of the Town and Country Planning Acts 1932 and 1943 and the Town and Country Planning Act 1944 and of any order scheme or regulation made under those Acts or under any enactment repealed by those Acts so far as those provisions are from time to time in force in respect of the land on which any development within the meaning of those Acts is carried out under this Act shall apply to that development.

Saving for  
town and  
country  
planning.  
22 & 23 Geo. 5.  
c. 48.  
6 & 7 Geo. 6.  
c. 29.

75. Nothing in this Act affects prejudicially any estate right power privilege or exemption of the Crown.

Crown rights.

76. The costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed by the taxing officer of the House of Lords or of the House of Commons shall be borne by the Councils in equal shares and shall be paid out of their respective county funds or out of moneys to be borrowed under this Act.

Costs of Act.

The SCHEDULE referred to in the foregoing Act.

## THE SCHEDULE.

DESCRIBING PROPERTIES UNDER WHICH EASEMENTS ONLY  
MAY BE TAKEN.

Area.	Nos. on deposited plans.
Borough of Tynemouth ... ..	11 13 17
Borough of Wallsend ... ..	118 119 122
Borough of Jarrow ... ..	1 3 5 6 7 8 9 11 12 13 14 15 16 17 18 20 21 22 23 24 25 28 29 31 32 34 35 36 37 38 39 40 41 45 46 47 48 50 51 52 54 55 56 57 58 59 60 64 66 67 68 69 70 72 73 74 75 77 78 79 80 82 83 364
Urban District of Boldon ... ..	1

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