

# Rochdale Canal Act, 1952

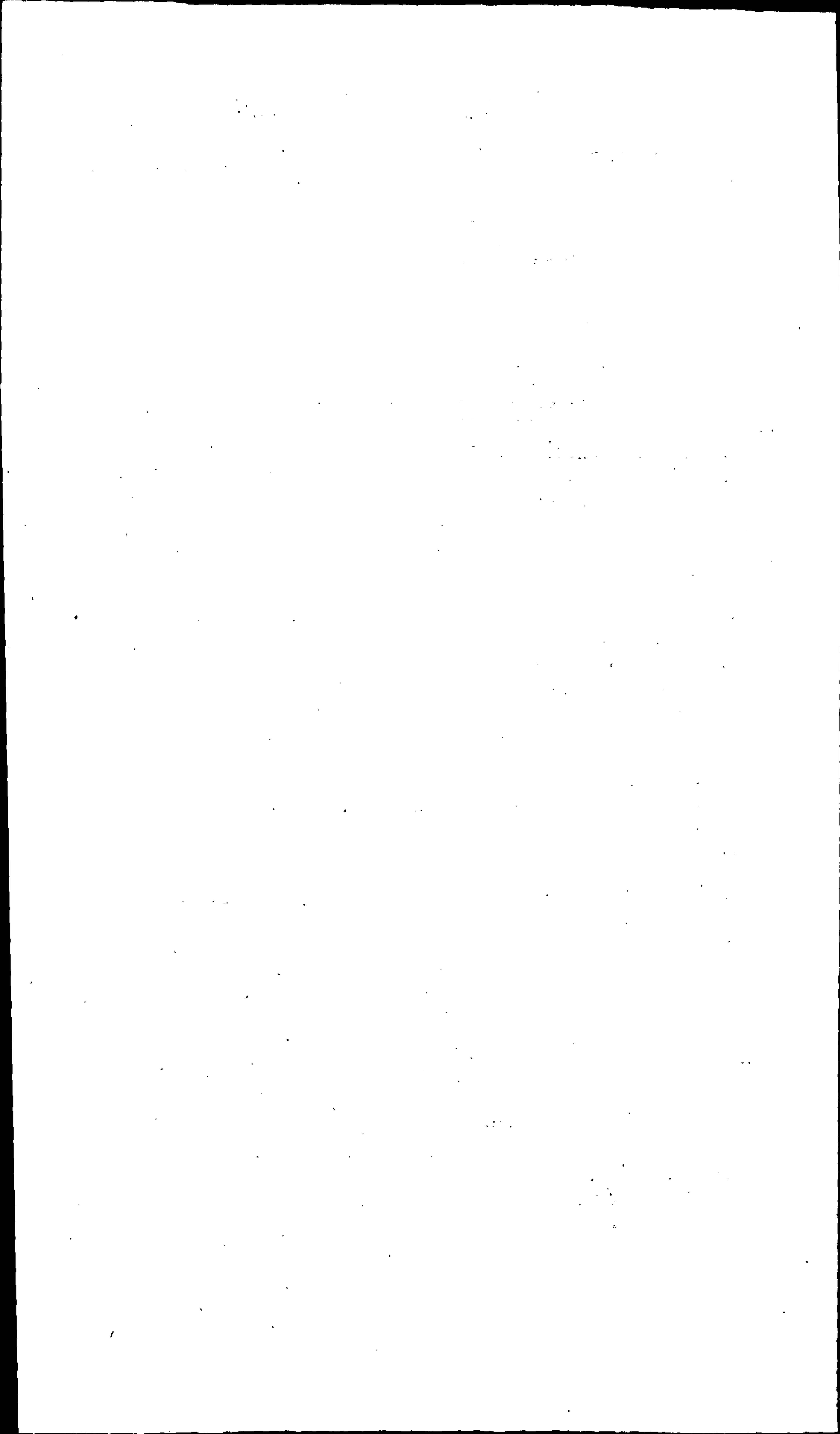
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## CHAPTER xxxvii

An Act to authorise the closing for navigation of part of the Rochdale Canal and for other purposes.

[1st August 1952.]

**W**HEREAS the Rochdale Canal Company (hereinafter called "the Company") were incorporated by the Rochdale Canal Act 1794 by the name of the Company of Proprietors of the Rochdale Canal and their name was changed by the Rochdale Canal Act 1899 to their present name:

And whereas under the powers of the Rochdale Canal Acts 1794 to 1949 the Company have constructed a system of canals (known as and hereinafter referred to as "the Rochdale Canal") comprising a main canal extending from a junction with the Calder and Hebble Navigation at Sowerby Bridge in the west riding of the county of York to a junction with the Bridgewater Canal of the Manchester Ship Canal Company in the city of Manchester and two branch canals known as the Rochdale Branch Canal and the Heywood Branch Canal respectively:

And whereas for many years past there has been a negligible amount of traffic over the part of the Rochdale Canal between its junction with the Calder and Hebble Navigation and a point near the point of junction of the said canal with the Manchester and Ashton-under-Lyne Canal in the city of Manchester but the Rochdale Canal has for many years been and is now a vital source of supplies of water for important industrial and other interests:

And whereas it is expedient that the Company should be released from their obligations to keep the last-mentioned part of the Rochdale Canal open for navigation to the extent and in the manner by this Act provided:

And whereas it is expedient that provision should be made as in this Act contained with respect to bridges and crossings over the Rochdale Canal and that the other provisions of this Act be enacted :

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

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

Short and  
collective titles.

1.—(1) This Act may be cited as the Rochdale Canal Act 1952.

(2) The Rochdale Canal Acts 1794 to 1949 and this Act may be cited together as the Rochdale Canal Acts 1794 to 1952.

Interpretation.

2. In this Act unless the subject or context otherwise requires—

“ the adjacent watercourses ” means the watercourses constructed by the Company adjacent to the closed portion of the canal and maintainable by the Company ;

“ bridge authority ” means as the context may require a county council or the council of a borough or urban district or the Minister of Transport in whom any bridge or an easement for the construction of any crossing is vested wholly or partly or becomes vested under this Act ;

“ the closed portion of the canal ” means the part of the Rochdale Canal between its junction with the Calder and Hebble Navigation at Sowerby Bridge in the west riding of the county of York and the southwest side of the bridge carrying Leech Street over the Rochdale Canal in the city of Manchester 190 yards or thereabouts north-eastward of the point of junction of the Rochdale Canal with the Manchester and Ashton-under-Lyne Canal and includes the Rochdale Branch Canal and the Heywood Branch Canal ;

“ the commission ” means the British Transport Commission and any reference to the commission in relation to any functions of the commission which are for the time being delegated to an executive in pursuance of section 5 of the Transport Act 1947 shall be construed as a reference to that executive ;

“ the Company ” means the Rochdale Canal Company.

3.—(1) Subject to the provisions of this Act—

(a) all rights of navigation along and over and all rights of user by barges or other boats of the waterways and channels of the closed portion of the canal shall cease and be extinguished ;

Closing to navigation of portion of canal.

(b) the Company shall be released from all obligations imposed upon them to keep the closed portion of the canal open for navigation but they shall retain all their existing powers to supply the closed portion of the canal with water and shall except as otherwise provided by this Act continue to be subject to all statutory obligations and to all other obligations (if any) to preserve the supplies of water to the closed portion of the canal or to permit the abstraction or use of water from the closed portion of the canal ;

(c) the Company shall remain and be under all existing liabilities with respect to the prevention of leakage from the closed portion of the canal or any of the adjacent watercourses and shall except as otherwise provided by this Act be subject to all existing obligations to construct repair or maintain any bridge aqueduct road towing-path path culvert drain or other work or convenience wholly or partly situate over under in or adjacent to the closed portion of the canal or any of the adjacent watercourses.

(2) Nothing in this Act or in any other Act relating to the closed portion of the canal shall exonerate the Company from any indictment action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them.

(3) Nothing in this section shall alter repeal prejudice or affect any express statutory provision in force at the passing of this Act for the protection of the owner lessee or occupier of any property or for the protection or benefit of any public trustees or commissioners corporation or person specifically named in such provision except in so far as such provision may contain a right to navigate upon the closed portion of the canal or use the same with barges or other boats of any kind.

4. If for any reason any part of the closed portion of the canal shall be in such a condition as to be prejudicial to health or a nuisance such condition or nuisance shall be a statutory nuisance for the purposes of Part III of the Public Health Act 1936 and the county council of the administrative county in which such part of the closed portion of the canal is situate may in addition to a local authority enforce the provisions of the said Part III in respect of this section.

Prevention of nuisances etc.

Fencing  
of canal.

5.—(1) The Company if reasonably required so to do by a local authority shall erect and maintain adequate fences round any part of the closed portion of the canal.

(2) Any question whether a requirement under subsection (1) of this section is reasonable or the fences adequate shall be determined by a single arbitrator to be appointed failing agreement between the Company and the local authority by the President of the Royal Institution of Chartered Surveyors and subject thereto the provisions of the Arbitration Act 1950 shall apply to such arbitration.

Preservation  
of amenities.

6. For the purposes of section 33 of the Town and Country Planning Act 1947 the closed portion of the canal shall be deemed to be a vacant site within the meaning of that section.

As to  
agreements.

7. As from the date of the passing of this Act all penalties for the loss or stoppage of traffic on the closed portion of the canal and any compensation payable for any percolation leakage or waste of water from the closed portion of the canal provided for by any agreement subsisting at that date shall be irrecoverable by the Company:

Provided that nothing in this section shall affect the right of the Company to recover damages under any such agreement for any actual loss incurred or damages sustained by the Company.

Modification  
of Oldham  
and Rochdale  
Corporations  
Water Act  
1923.

8.—(1) Section 17 (As to maintenance of canal) and paragraph (4) of section 21 (For further protection of Calder and Hebble and Aire and Calder Navigations) of the Oldham and Rochdale Corporations Water Act 1923 shall cease to have effect so far as they relate to the maintenance of the closed portion of the canal in such efficient repair and condition as to enable vessels having a draught of four feet to navigate that portion.

(2) The Company shall not cause or (except for any reason beyond their control) permit the level of the water in any part of the closed portion of the canal to be reduced below that of the over-flow weirs in that part and shall (subject to the provisions of this Act) maintain the closed portion of the canal as an unobstructed channel of an average depth at any cross-section of three feet so as at all times to permit the free passage of water down the closed portion of the canal into the Bridgewater Canal at Castlefield Lock and the Calder and Hebble Navigation at Sowerby Bridge.

Penalties.

9.—(1) If—

(a) within twenty-eight days after the date on which notice of a requirement under section 5 (Fencing of canal) of this Act is served upon them or in case of a reference

to arbitration under that section within twenty-eight days after the date of the award of the arbitrator the Company fail to comply with their obligations under that section 5 ; or

- (b) the Company fail to comply with their obligations under subsection (2) of section 8 (Modification of Oldham and Rochdale Corporations Water Act 1923) of this Act ;

they shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding ten pounds for every day on which the failure continues after conviction therefor.

(2) Offences created by this section may be prosecuted under the Summary Jurisdiction Acts.

**10.**—(1) Any officer of the appropriate body shall on producing if so required some duly authenticated document showing his authority have the right to enter upon land and property of the Company so far as may be necessary for the purpose of ascertaining whether there is or has been any contravention of the provisions of section 5 (Fencing of canal) or subsection (2) of section 8 (Modification of Oldham and Rochdale Corporations Water Act 1923) of this Act. Power of entry.

(2) In this section “ the appropriate body ” means—

- (a) in respect of the said section 5 the county council of the administrative county and the council of the borough or urban or rural district within whose area the part of the closed portion of the canal in relation to which the entry is made is situate ;

(b) in respect of subsection (2) of the said section 8—

(i) in relation to the Summit Pool the county council of the administrative county of the county palatine of Lancaster the county council of the administrative county of the west riding of the county of York the council of any borough or urban or rural district through which the closed portion of the canal runs and the Manchester Ship Canal Company ;

(ii) in relation to that part of the closed portion of the canal which is situate westward of the Summit Pool the county council of the administrative county of the county palatine of Lancaster the council of any borough or urban district through which that part of the closed portion of the canal runs and the Manchester Ship Canal Company ;

(iii) in relation to that part of the closed portion of the canal which is situate to the eastward of the Summit Pool the county council of the administrative county of the west riding of the county of York and the council of any borough or urban or rural district through which that part of the closed portion of the canal runs.

Agreements  
as to transfer.

11.—(1) Subject to the provisions of the next succeeding section of this Act the Company on the one hand and any local authority county council highway authority or owner of land abutting on or near to the closed portion of the canal on the other hand may enter into and carry into effect agreements for the transfer to any such contracting party of the interest of the Company in any part of the closed portion of the canal or in any culvert watercourse works structures erections or bridges (not being bridges to which the next but one succeeding section of this Act or that section as applied in whole or in part by any other section of this Act apply).

(2) (a) Without prejudice to the generality of the provisions of subsection (1) of this section where any part of the closed portion of the canal passes by through or abuts on any land in a borough urban district or rural district forming a housing or industrial estate or the site of a proposed housing or industrial estate of the local authority for the borough or district the Company (subject to the provisions of the next succeeding section of this Act) may and shall if reasonably required so to do by the local authority enter into and carry into effect agreements for the transfer to the local authority of the interest of the Company in the site of such part of the closed portion of the canal.

(b) Any question arising between the Company and the local authority as to the sum to be paid by the local authority as consideration for the said interest shall be determined by the Lands Tribunal.

(3) Notwithstanding the transfer of any such interest of the Company as is mentioned in subsection (1) or subsection (2) of this section the Company shall continue to be subject to all obligations with respect to the repair or maintenance of or otherwise in connection with the property concerned but (if so provided by the agreement for transfer) those obligations may also be imposed upon the transferee who may be required to indemnify and keep indemnified the Company from and against all claims demands actions proceedings damages costs and expenses in respect of any failure of the transferee to carry out the obligations so imposed upon him.



(4) Every such transferee shall provide and maintain such works for securing the free passage of water through every part of the site of the closed portion of the canal to which the agreement for transfer relates as will enable the Company or the transferee as the case may be to comply with any provision contained in any enactment in force at the passing of this Act or any enactment in this Act requiring the Company to maintain the closed portion of the canal so as at all times to permit the free passage of water along the closed portion of the canal or requiring the Company or the transferee to receive water into or discharge or permit the abstraction of water from the closed portion of the canal.

(5) Every such transferee shall make such provision as may be necessary to accommodate any cables mains pipes or similar apparatus which at the date of transfer are laid under or across the property concerned.

12.—(1) (a) Before the Company enter into any agreement under the last preceding section the proposed transferee shall publish once at least in each of two successive weeks in one or more newspapers as prescribed by paragraph (b) of this subsection a notice explaining the effect of the proposed agreement and stating that objections thereto may be made to the Company within twenty-eight days after the first publication of the notice. Provisions applicable to last preceding section.

(b) The newspaper or newspapers in which a notice is to be published pursuant to the provisions of paragraph (a) of this subsection shall be—

(i) if the property which is the subject of the proposed agreement is situate to the west of the Summit Pool a newspaper or newspapers circulating within the area west of the Summit Pool through which the Rochdale Canal runs ;

(ii) if the property which is the subject of the proposed agreement is situate to the east of the Summit Pool a newspaper or newspapers circulating within the area east of the Summit Pool through which the Rochdale Canal runs ;

(iii) if the property which is the subject of the proposed agreement comprises any part of the Summit Pool a newspaper or newspapers circulating within the whole of the area through which the Rochdale Canal runs.

(2) A copy of any notice published pursuant to subsection (1) of this section shall on or before the date of the first publication of the notice be sent by the Company by post to the county council and the council of the borough or urban or rural district in whose county or borough or district the property which is the subject of the proposed agreement is situate.

(3) If before the expiration of the said period of twenty-eight days any objection is received by the Company from any person interested in the flow or user of water in the closed portion of the canal or from any council to whom a notice was sent under this section the Company and the proposed transferee shall not unless the objection is previously withdrawn enter into the proposed agreement unless authorised so to do by the award of an arbitrator and then only in accordance with the terms of the award and subject to such requirements (if any) as to the provision and maintenance of works for securing the free passage of water in pursuance of subsection (4) of the last preceding section as may be specified in the award.

(4) Any difference between the Company and a local authority as to whether any requirement under subsection (2) of the last preceding section is reasonable and any objection received by the Company as mentioned in subsection (3) of this section and not withdrawn shall be referred to and determined by an arbitrator.

(5) The Mersey River Board shall be deemed to be a person interested in the flow or user of water in any part of the closed portion of the canal within the area of that board.

For protection  
of Lancashire  
County  
Council.

**13.**—(1) In this section—

“bridge” includes the approaches to the bridge so far as such approaches are on land belonging to the Company;

“the county” means the administrative county of the county palatine of Lancaster;

“the county council” means the county council of the county;

“the county portion of the canal” means that part of the closed portion of the canal which is situate within the county.

(2) If the county council shall at any time give to the Company not less than six months notice in writing of their desire that any bridge belonging to the Company carrying a county road over the county portion of the canal should be transferred to the county council such bridge together with the sites of the abutments thereof shall vest in the county council as from the date specified in the said notice (in this section referred to as “the date of vesting”).

(3) The county council shall on and from the date of vesting be responsible at their own cost and expense in all things for the repair maintenance and renewal of any bridge vested in them as aforesaid and the Company shall on and from the date of vesting be released from all liability cost and expense in connection therewith.

Provided that this subsection shall not impose upon the county council any greater obligations or liabilities than those to which they are or may be subject as a highway authority.

(4) The Company shall on or before the date of vesting or in default of agreement immediately after the award of an arbitrator pay to the county council in respect of any such bridge as aforesaid such sum of money in consideration of the Company being relieved of their obligations in regard to the maintenance thereof as may be agreed or in default of agreement settled by arbitration.

(5) The county council shall indemnify and keep indemnified the Company from and against all claims demands actions proceedings damages costs and expenses in respect of the failure by the county council subsequent to the date of vesting to comply with their obligations as to the repair and maintenance of any such bridge as aforesaid.

(6) The county council shall be entitled to alter widen improve realign lower or otherwise deal with any bridge vested in them as aforesaid or to substitute therefor a solid embankment of such width as they may require and the Company shall if and when required in writing so to do by the county council grant to the county council without any payment or other consideration (except payment of legal costs incurred by the Company) such easements in perpetuity in through under or over the bed and banks of the county portion of the canal and any other land and property of the Company held by them as part of their undertaking at or adjoining or in the near neighbourhood of the said bridge as the county council may reasonably require for the purposes of this subsection together with the right to the county council their contractors agents workmen and servants to enter upon the property of the Company so far as may be necessary for the purposes of this subsection.

(7) The county council shall be entitled to construct crossings (either in solid embankment or otherwise) across the county portion of the canal of such width as the county council may reasonably require and the Company shall if and when required in writing so to do by the county council grant to the county council without any payment or other consideration (except payment of legal costs incurred by the Company) such easements in perpetuity in through under or over the bed and banks of the county portion of the canal and any other land and property of the Company held by them as part of their undertaking at or adjoining or in the near neighbourhood of the county portion of the canal as the county council may reasonably require for the construction of such crossings together with the right to the county council their contractors agents workmen and

servants to enter upon the property of the Company so far as may be necessary for the purposes of this subsection.

(8) Such grant or grants of easement shall contain terms and conditions covenants and agreements by the county council to make such access to and on both sides of the said embankments or crossings as may be reasonably required to enable the employees of the Company to pass and repass with or without vehicles to and from the towpath on either side of such embankments or crossings.

(9) (a) In the execution of any such works as are in this section referred to the county council shall not do any act matter or thing which will interfere with or restrict the free passage of water along the closed portion of the canal under any of the said bridges or under or through any embankment or other work referred to in subsection (6) or subsection (7) of this section ;

(b) The county council shall make and maintain culverts or openings five feet six inches in diameter through any such bridge embankment or other work as aforesaid if and when constructed for the purpose of ensuring the free passage of water along the closed portion of the canal but the county council shall not be liable to keep the said culverts or openings free from obstruction other than obstruction due to want of repair of the culverts openings bridge embankment or other work In all other respects the Company shall be liable to keep the said culverts or openings free from obstruction ;

(c) The county council shall make such provision as may be necessary to accommodate any cables mains pipes or similar apparatus which at the date of the commencement of any such works as are in this section referred to are laid under or across the lands on which the work is constructed.

(10) The said culverts and openings shall be constructed in accordance with drawings and specifications to be previously approved in writing by the engineer of the Company and the engineer of the Manchester Ship Canal Company and in the case of any culvert or opening within the area of the Mersey River Board by the engineer of that board and to the reasonable satisfaction of the said engineers.

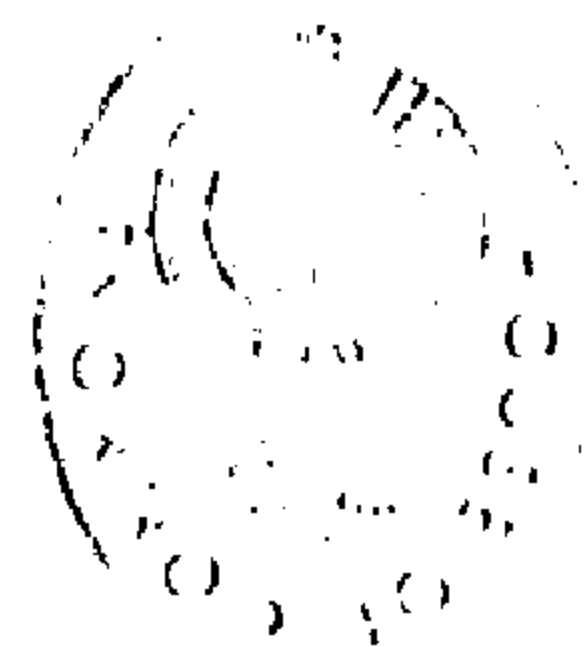
(11) (a) The Company shall if required by the county council take steps to exclude for such period as may be reasonably necessary the water from so much of the closed portion of the canal as may be reasonably necessary for the purpose of enabling the county council to execute any such works as are referred to in subsection (6) of this section :

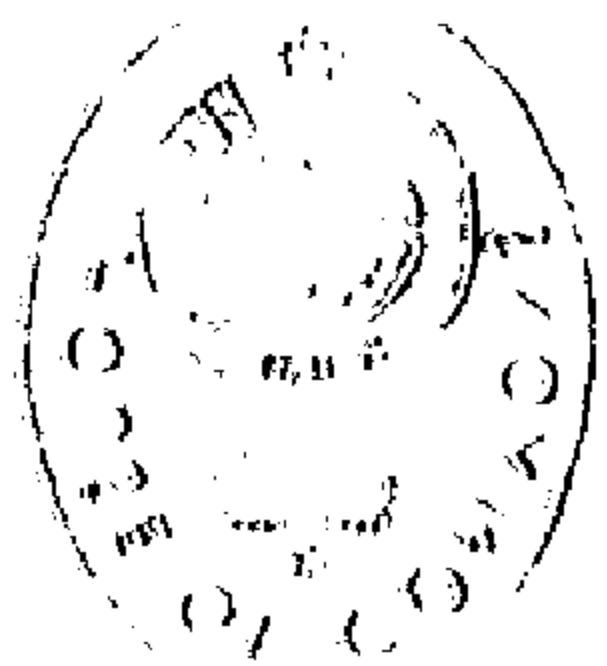
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Provided that the Company shall make such provision as may be necessary to secure during any such period the continuance of the free passage of water along the closed portion of the canal.

(b) The works for the purpose of the execution of which water is excluded as mentioned in paragraph (a) of this subsection shall wherever reasonably practicable be commenced and completed within the period of the annual industrial holiday (not being a holiday which is of less than one week's duration) in the county district in which the works are situate.

(12) Nothing in this Act shall prejudice or affect any right of the county council to discharge into the canal the surface water drainage from any county road.

(13) The powers of this section shall not be exercised so as to interfere with any right or easement to which any third party may be entitled without the consent of such third party.

(14) If any difference or dispute shall arise between the county council on the one hand and the Company or the Manchester Ship Canal Company or the Mersey River Board on the other hand under this section the same shall be determined by arbitration.

14. In the last preceding section of this Act references to the Manchester Ship Canal Company shall be construed in respect of any culverts or openings to be constructed in the Summit Pool of the Rochdale Canal as references to that Company and the commission and in respect of any culverts or openings to be constructed in the county portion of the canal north of the said Summit Pool as references to the commission.

As to certain references in last preceding section.

15. The provisions of section 13 (For protection of Lancashire County Council) of this Act shall apply for the protection of the county council of the administrative county of the west riding of the county of York subject to the modifications that references in that section to the county shall be construed as references to the administrative county of the west riding of the county of York references to the county council shall be construed as references to the county council of that county and references to the Manchester Ship Canal Company shall be construed as references to the commission.

For protection of West Riding County Council.

16.—(1) The provisions of subsections (6) (8) (9) (10) (11) (13) and (14) of section 13 (For protection of Lancashire County Council) of this Act shall apply to all bridges crossing the closed portion of the canal which are situate in the administrative county of the county palatine of Lancaster and are at the date of the passing of this Act county bridges.

Application to county bridges.

(2) The provisions of the subsections mentioned in subsection (1) of this section shall apply to all bridges crossing the closed portion of the canal which are situate in the administrative county of the west riding of the county of York and are at the date of the passing of this Act county bridges subject to the modifications that references in those subsections to the county shall be construed as references to the administrative county of the west riding of the county of York references to the county council shall be construed as references to the county council of that county and references to the Manchester Ship Canal Company shall be construed as references to the commission.

For protection  
of Minister  
of Transport.

17.—(1) The provisions of subsections (7) (8) (9) (10) (12) (13) and (14) of section 13 (For protection of Lancashire County Council) of this Act shall apply for the protection of the Minister of Transport subject to the modifications that references in those subsections to the county council shall be construed as references to the said Minister references to the county portion of the canal shall be construed as references to the closed portion of the canal references to the Manchester Ship Canal Company shall in relation to so much of the closed portion of the canal as is situate within the administrative county of the west riding of the county of York be construed as references to the commission and references to a county road shall be construed as references to a road vested in and repairable by the said Minister.

(2) The provisions of subsections (6) (8) (9) (10) (11) (13) and (14) of the said section 13 shall subject to such of the modifications mentioned in subsection (1) of this section as are applicable apply to all bridges carrying a trunk road over the closed portion of the canal.

(3) Subsection (11) of the said section 13 shall subject to such of the modifications mentioned in subsection (1) of this section as are applicable have effect as if there were included in paragraph (a) thereof in relation to the crossing of the canal in connection with the projected Yorkshire Trunk Road a reference to subsection (7) of that section.

For protection  
of Rochdale  
Corporation.

18.—(1) The provisions of section 13 (For protection of Lancashire County Council) of this Act shall apply for the protection of the mayor aldermen and burgesses of the county borough of Rochdale subject to the modifications that references in that section to the county shall be construed as references to the county borough of Rochdale references to the county council shall be construed as references to the said mayor aldermen and burgesses references to bridges belonging to the Company shall be construed as including references to bridges belonging in part to the Company and in part to the said mayor aldermen and



burgesses references to a county road shall be construed as references to a road vested in or repairable by the said mayor aldermen and burgesses and references to a county district shall be construed as references to the said county borough.

(2) The provisions of subsections (6) (8) (9) (10) (11) (13) and (14) of the said section 13 shall subject to such of the modifications mentioned in subsection (1) of this section as are applicable apply to all bridges crossing the closed portion of the canal which are situate wholly or partly in the county borough of Rochdale and are at the date of the passing of this Act vested in or repairable by the said mayor aldermen and burgesses.

**19.**—(1) The provisions of section 13 (For protection of Lancashire County Council) of this Act shall apply for the protection of the council of any borough (not being a county borough) or of any urban district traversed by the closed portion of the canal subject to the modifications that references in that section to the county council shall be construed as references to the council of the borough or urban district concerned references to the county shall be construed as references to that borough or district references to a county road shall be construed as references to a road vested in and repairable by the said council (not being a county road) and in relation to any borough or urban district in the administrative county of the west riding of the county of York references to the Manchester Ship Canal Company shall be construed as references to the commission.

For protection of councils of non-county boroughs and urban districts.

(2) The provisions of subsections (6) (8) (9) (10) (11) (13) and (14) of the said section 13 shall subject to such of the modifications mentioned in subsection (1) of this section as are applicable apply to all bridges crossing the closed portion of the canal which are situate in any such borough or urban district and are at the date of the passing of this Act vested in and repairable by the council of the said borough or urban district.

**20.** For the protection of the bridge authorities the following provisions shall unless otherwise agreed between the bridge authority concerned and the Company apply and have effect:—

For protection of bridge authorities.

(1) On and after—

(a) the date of vesting as defined in section 13 (For protection of Lancashire County Council) as applied by any subsequent section of this Act in respect of any bridge which by virtue of this Act becomes vested in a bridge authority; or

(b) the date of the passing of this Act in respect of a bridge over the closed portion of the canal which is at that date either a county bridge or a bridge vested in and repairable by or vested in or repairable by the Council of a borough or urban district; or

(c) in respect of any easement granted pursuant to subsection (7) of the said section 13 as applied by any subsequent section of this Act the date on which the grant becomes operative ;

the Company shall not without the consent in writing of the bridge authority concerned enter into any agreement for or in connection with the abstraction of water from or the discharge of water into the closed portion of the canal at the site of such bridge or of any works to be constructed under the powers of subsection (6) or subsection (7) of the said section 13 as applied by any subsequent section of this Act.

- (2) If before the date of vesting as aforesaid or the date of the passing of this Act or the date on which the grant becomes operative as aforesaid (as the case may be) any water is abstracted from or discharged into the closed portion of the canal at or near the site of any such bridge or works the bridge authority concerned may execute such works as may be agreed between them and the Company and all other parties concerned to be reasonably necessary to alter the point of abstraction or discharge.

For further  
protection of  
Lancashire  
County  
Council.

**21.** For the further protection of the county council of the administrative county of the county palatine of Lancaster (in this section referred to as "the county council") the following provisions shall unless otherwise agreed between the county council and the Company apply and have effect:—

- (1) The Company shall if and when required in writing so to do by the county council convey to and vest in the county council without any payment or other consideration except legal costs such land forming part of the Rochdale Canal and adjoining Canal Street in the urban district of Littleborough as the county council may reasonably require for the purposes of widening such street:

Provided that for the purpose of ensuring the free passage of water in that part of the canal such widening shall be carried out in accordance with drawings and specifications to be reasonably approved by the Company ;

- (2) Subsection (11) of section 13 (For protection of Lancashire County Council) of this Act shall have effect as if there were included in paragraph (a) thereof in relation to the crossing of the canal in connection with the projected extension of Broadway a reference to subsection (7) of that section :

- (3) If any difference shall arise between the county council and the Company under this section the same shall be determined by arbitration.

**22.** For the further protection of the county council of the administrative county of the west riding of the county of York (in this section respectively referred to as "the county council" and "the county") and the councils of county districts in the county traversed by the closed portion of the canal the following provisions shall unless otherwise agreed between the county council or the council of the county district concerned (as the case may be) and the Company apply and have effect:—

For further protection of West Riding County Council and local authorities.

Section 13 (For protection of Lancashire County Council) as applied by section 15 (For protection of West Riding County Council) or subsection (2) of section 16 (Application to county bridges) or section 19 (For protection of councils of non-county boroughs and urban districts) of this Act shall in its application within the county have effect as if the words "such culverts or openings" were substituted for the words "culverts or openings five feet six inches in diameter" and as if the words "as may be reasonably necessary" were inserted after the word "constructed" in paragraph (b) of subsection (9) thereof:

Provided that neither the county council nor the council of any borough or urban district in the county shall be required to provide or make pursuant to the said subsection (9) as applied as aforesaid any culvert or opening exceeding five feet six inches in diameter or having a capacity or (in the case of two or more culverts or openings through the same bridge embankment or other work) having an aggregate capacity exceeding that equivalent to the capacity of a culvert or opening five feet six inches in diameter.

**23.** For the further protection of the mayor aldermen and burgesses of the county borough of Rochdale the following provisions shall unless otherwise agreed between the said mayor aldermen and burgesses and the Company apply and have effect:—

For further protection of Rochdale Corporation.

Section 13 (For protection of Lancashire County Council) as applied by section 18 (For protection of Rochdale Corporation) of this Act shall in its application in the county borough of Rochdale have effect as if the words "such culverts or openings" were substituted for the words "culverts or openings five feet six inches in diameter" and as if the words "as may be reasonably necessary" were inserted after the word "constructed" in paragraph (b) of subsection (9) thereof.

For protection  
of sewerage  
authorities in  
the west  
riding of  
York.

**24.** The provisions of subsections (7) (8) (9) (10) (11) (13) and (14) of section 13 (For protection of Lancashire County Council) of this Act shall so far as applicable extend and apply to the construction of crossings for carrying sewers across any part of the closed portion of the canal in the west riding of the county of York subject to the modifications mentioned in section 22 (For further protection of West Riding County Council and local authorities) of this Act and to the further modifications that references in the said section 13 to the county council shall be construed as references to the council of any county district in the said west riding and any joint sewerage board therein references to the county portion of the canal shall be construed as references to the said part of the closed portion of the canal and references to the Manchester Ship Canal Company shall be construed as references to the commission.

For protection  
of British  
Transport  
Commission.

**25.** For the protection of the commission the following provisions shall apply and have effect:—

- (1) In this section “the Company” includes the owner for the time being of any land now vested in the Company to which this section is applicable:
- (2) The commission may remove any bridge carrying their railway over the closed portion of the canal and may substitute a solid embankment therefor and for that purpose may require the Company to convey to them at such price or other consideration as may be agreed between the Company and the commission or in default of agreement determined by arbitration so much of the site of the closed portion of the canal on or over which such bridge has been constructed and any other land of the Company as may be reasonably required by the commission for the construction of such embankment together with the right to the commission their contractors agents workmen and servants to enter upon the property of the Company so far as may be reasonably necessary for the purpose of this subsection:
- (3) Such conveyance shall contain terms and conditions covenants and agreements by the commission to make and maintain such culverts and openings as are hereafter in this section referred to and where reasonably necessary for the inspection and maintenance of the canal to make such access between the two sides of the said embankment as may be required to enable employees of the Company to pass and repass with or without vehicles to and from the towpath on either side of such embankment and also to accommodate any cables mains pipes or similar apparatus which at the

date of commencement of construction of the solid embankment are laid under or across the lands on which such embankment is constructed :

- (4) Before exercising the powers conferred on them by subsection (2) of this section the commission shall give to the Company not less than six months' notice in writing of their intention so to do and shall specify in every such notice—

(a) the bridge or bridges which the commission propose to remove accompanied by plans sections and specifications of the works proposed to be carried out ; and

(b) the lands which the commission require the Company to convey to them as aforesaid :

- (5) Such works shall be carried out only in accordance with such plans sections and specifications as may be approved in writing by the Company or in default of such approval be determined by arbitration :

Provided that if the Company do not within twenty-eight days after the submission to them of any plans sections or specifications signify their disapproval thereof and the grounds of such disapproval they shall be deemed to have approved thereof :

- (6) In substituting a solid embankment for a bridge in pursuance of this section the commission shall not do any act matter or thing which will interfere with or restrict the free passage of water along the closed portion of the canal under or through the solid embankment and shall make and maintain such culverts or openings through such embankment or other work as aforesaid if and when constructed as may be reasonably necessary for the purpose of ensuring the free passage of water along the closed portion of the canal but the commission shall not be liable to keep the said culverts or openings free from obstruction other than obstruction due to want of repair of the solid embankment culverts or openings or other works as aforesaid In all other respects the Company shall be liable to keep the said culverts or openings free from obstruction :
- (7) The said culverts and openings shall be constructed in accordance with drawings and specifications to be previously approved in writing by the engineer of the Company and in the case of any bridge in the administrative county of the county palatine of Lancaster by the engineer of the Manchester Ship Canal Company and to the reasonable satisfaction of the said engineer or engineers :

- (8) The commission shall from time to time repay to the Company any additional expense in maintaining the Rochdale Canal reasonably incurred by them by reason of any alteration of any of the said bridges made in pursuance of this section :
- (9) The powers of this section shall not be exercised so as to interfere with any right or easement to which any third party may be entitled without the consent of such third party :
- (10) Any difference arising between the commission on the one hand and the Company or the Manchester Ship Canal Company on the other hand under the foregoing provisions of this section shall be referred to and determined by arbitration :
- (11) Except as otherwise expressly provided by this Act nothing in this Act or in any agreement made thereunder shall prejudice or affect any of the statutory rights or powers of the commission as successors to the Company of Proprietors of the Calder and Hebble Navigation and the Undertakers of the Aire and Calder Navigation or authorise the Minister of Transport or the Company or any local authority county council highway authority or other person to construct or permit the construction of any work or to do or permit to be done any act or thing which may interfere with or in any way prejudice the flow or discharge into the Calder and Hebble Navigation of water flowing or discharged or caused to flow or to be discharged from the Summit Pool of the Rochdale Canal or from any other source into any reach of the Rochdale Canal eastward of that pool which the Company are required to cause to flow or to be discharged into the said Calder and Hebble Navigation.

Saving for  
Manchester  
Ship Canal  
Company.

**26.** Except as otherwise expressly provided by this Act nothing in this Act or in any agreement made thereunder shall prejudice or affect any of the statutory rights or powers of the Manchester Ship Canal Company (whether conferred upon that Company or upon their predecessors in title) or authorise the Minister of Transport or the commission or the Company or any local authority county council highway authority or other person to construct or permit the construction of any work or to do or permit to be done any act or thing which may interfere with or in any way prejudice the flow or discharge into the Bridgewater Canal at Castlefield Lock of water flowing or discharged or caused to flow or to be discharged from the Summit Pool of the Rochdale Canal or from any other source into any reach of the Rochdale Canal westward of that pool which the Company are

required to cause to flow or to be discharged into the said Bridge-water Canal at Castlefield Lock.

27. For the protection of Fothergill and Harvey Limited (hereinafter referred to as "the millowners") the following provisions shall apply and have effect:—

For protection  
of Fothergill  
and Harvey  
Limited.

(1) Upon receipt of a notice in writing from the millowners requiring them so to do the Company shall without any payment therefor transfer to the millowners the bridges in the urban district of Littleborough known respectively as Punch Bowl Bridge and Sladen Bridge (hereinafter referred to in this section as "the said bridges") or such one of them as is referred to in such notice together with the sites of the abutments thereof and the approaches thereto so far as such approaches are on land belonging to the Company:

(2) On and after the transfer of either of the said bridges to the millowners the millowners shall maintain in good repair and condition the bridge so transferred to them or any bridge reconstructed or substituted therefor under the next following subsection of this section and the Company shall be released from all liability cost and expense in connection therewith:

(3) On and after the transfer of either of the said bridges to the millowners the millowners shall be entitled to alter widen improve realign lower or otherwise deal with such bridge or to substitute therefor an improved bridge or a solid embankment of such width as they may require and the Company shall if and when required in writing by the millowners so to do grant to the millowners without payment or other consideration such easements in perpetuity in through under or over the bed and banks of the closed portion of the canal and any other land and property of the Company held by them as part of their undertaking at or adjoining or in the near neighbourhood of such bridge as the millowners may reasonably require for the purposes of this subsection and the immediately preceding subsection of this section together with the right to the millowners their contractors agents workmen and servants to enter upon the property of the Company as far as may be necessary for the purposes of the said subsections or either of them:

(4) Such grant or grants of easement may contain terms and conditions covenants and agreements by the millowners to make such access to and on both sides of

any such embankment as may be reasonably required to enable the employees of the Company to pass and repass with or without vehicles to and from the tow-path on either side of such embankment :

- (5) (a) In the execution of any such works as are referred to in this section the millowners shall not do any act matter or thing which will interfere with or restrict the free passage of water along the closed portion of the canal under either of the said bridges or under or through any improved bridge or embankment referred to in subsection (3) of this section and shall make and maintain such culverts or openings through such bridge or embankment if and when constructed as may be reasonably necessary for the purpose of ensuring the free passage of water along the closed portion of the canal but the millowners shall not be liable to keep the said culverts or openings free from obstruction other than obstruction due to want of repair of the culverts openings bridge or embankment In all other respects the Company shall be liable to keep the said culverts or openings free from obstruction :

Provided that the millowners shall not be required to provide or make pursuant to this subsection any culvert or opening exceeding five feet six inches in diameter or having a capacity or (in the case of two or more culverts or openings through the same bridge or embankment) having an aggregate capacity exceeding that equivalent to the capacity of a culvert or opening five feet six inches in diameter ;

(b) The millowners shall make such provision as may be necessary to accommodate any cables mains pipes or similar apparatus which at the date of the commencement of any such works as are referred to in this section are laid in or under the bridge in question or under or across the land on which the work is constructed :

- (6) The said culverts and openings shall be constructed in accordance with drawings and specifications to be previously approved in writing by the engineer of the Company and the engineer of the Manchester Ship Canal Company and the engineer of the Mersey River Board and to the reasonable satisfaction of the said engineers :
- (7) The millowners shall indemnify and keep indemnified the Company from and against all claims demands actions proceedings damages costs and expenses in respect of the failure by the millowners to comply with their obligations under this section :



(8) The powers of this section shall not be exercised, so as to interfere with any right or easement to which any third party may be entitled without the consent of such third party:

(9) If any difference or dispute shall arise between the mill-owners on the one hand and the Company or the Manchester Ship Canal Company or the Mersey River Board on the other hand under this section the same shall be determined by arbitration.

**28.** Where under this Act any question or dispute is to be referred to an arbitrator or to arbitration the same shall except when otherwise provided in this Act be referred to an arbitrator to be agreed between the parties or failing agreement to be appointed by the President of the Institution of Civil Engineers and subject thereto the provisions of the Arbitration Act 1950 shall apply to any such arbitration. Arbitration.

**29.** All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company. Costs of Act.

*Table of Statutes referred to in this Act*

Short title	Session and chapter
Rochdale Canal Act 1794 ... ..	34 Geo. 3. c. lxxviii.
Rochdale Canal Act 1899 ... ..	62 & 63 Vict. c. cclvii.
Oldham and Rochdale Corporations Water Act 1923 ... ..	13 & 14 Geo. 5. c. lxxvii.
Public Health Act 1936 ... ..	26 Geo. 5. & 1 Edw. 8. c. 49.
Transport Act 1947 ... ..	10 & 11 Geo. 6. c. 49.
Town and Country Planning Act 1947 ... ..	10 & 11 Geo. 6. c. 51.
Arbitration Act 1950 ... ..	14 Geo. 6. c. 27.

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