



### CHAPTER iii.

An Act to authorise an alteration of the tunnel authorised by the Mersey Tunnel Act 1925 and for other purposes. A.D. 1928.  
[26th April 1928.]

**W**HEREAS by the Mersey Tunnel Act 1925 the lord mayor aldermen and citizens of the city of Liverpool (in this Act referred to as "the Liverpool Corporation") and the mayor aldermen and burgesses of the borough of Birkenhead (in this Act referred to as "the Birkenhead Corporation") were authorised to construct a tunnel for vehicular and pedestrian traffic under the River Mersey between the city of Liverpool and the county borough of Birkenhead :

And whereas an alteration of the said tunnel in the county borough of Birkenhead was authorised by the Mersey Tunnel Act 1927 :

And whereas it is expedient that the Liverpool Corporation and the Birkenhead Corporation should be empowered to make in the said city and county borough respectively further alterations of the tunnel authorised by the said Act of 1925 :

And whereas it is expedient that so much of the said authorised tunnel as will be rendered unnecessary by the works by this Act authorised should be abandoned as provided by this Act :

And whereas it is estimated that the cost of constructing the tunnel as proposed to be altered by this Act (including the amount necessary for the purchase of lands and easements required therefor) will not exceed

A.D. 1928. — the cost of constructing the tunnel as now authorised (including the amount necessary for the purchase of lands and easements required therefor) and it is expedient that the powers of borrowing conferred by the said Act of 1925 should be made applicable to the purposes of this Act :

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

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

And whereas plans and sections showing the lines and levels of the works authorised by this Act and a book of reference to the said 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 peace for the county of Chester and with the clerk of the peace for the county of Lancaster 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 in relation to the promotion of the Bill for this Act the requirements of the Borough Funds Acts 1872 and 1903 have been observed :

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 and collective titles.

1. This Act may be cited as the Mersey Tunnel Act 1928 and the Mersey Tunnel Acts 1925 and 1927 and this Act may be together cited as the Mersey Tunnel Acts 1925 to 1928.

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.

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-matter the same respective meanings And the expressions—

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Interpreta-  
tion.

“ the city ” means the city of Liverpool ;

“ the Liverpool Corporation ” means the lord mayor aldermen and citizens of the city acting by the council of the city ;

“ the borough ” means the county borough of Birkenhead ;

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

“ the Corporations ” means the Liverpool Corporation and the Birkenhead Corporation ;

“ the Act of 1925 ” means the Mersey Tunnel Act 1925 ;

“ the Act of 1927 ” means the Mersey Tunnel Act 1927 ;

“ the authorised tunnel ” means the tunnels and works in connection therewith authorised by the Act of 1925 and the Act of 1927 ;

“ the tunnel alterations ” means the Work No. 4 and Work No. 5 authorised by this Act and the works in connection therewith ;

“ the Joint Committee ” means the Mersey Tunnel Joint Committee incorporated by the Act of 1925 ;

“ the Lands Clauses Acts ” means those Acts as modified by the Acquisition of Land (Assessment of Compensation) Act 1919 Provided that the Corporations and the Joint Committee shall be deemed to be a local or public authority within the meaning of the last-mentioned Act.

4. The following Acts and part of Act (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) :—

Incorpora-  
tion of  
Acts.

(1) The Lands Clauses Acts (except section 127 of the Lands Clauses Consolidation Act 1845)

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Provided that the bond required by section 85 of that Act shall be under the seal of the Joint Committee and shall be sufficient without the addition of the sureties mentioned in that section :

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

Provided that for the purposes of this Act—

- (a) the expression “ the promoters of the undertaking ” and “ the company ” in the said Acts shall be construed to mean the Corporations or the Joint Committee ;
- (b) the expression “ the railway ” in the Railways Clauses Consolidation Act 1845 shall be construed to mean the tunnel alterations ; and
- (c) 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 Corporations to construct works.

5. Subject to the provisions of this Act the Corporations 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. 4 An alteration of the authorised tunnel in the borough being a tunnel or tunnels and approaches commencing by a junction with Work No. 1 authorised by the Act of 1925 as proposed to be constructed at a point under Hamilton Square about 30 yards north-west of the Queen Victoria Memorial and terminating at the junction of Albion Street and Market Place South ;

Work No. 5 An alteration of the authorised tunnel in the city being a tunnel or tunnels and approaches commencing by a junction with Work No. 2 authorised by the Act of 1925 as proposed to be constructed at a point about 40 yards south-east of Dale Street and about 10 yards south-west of Sweeting Street and terminating at a point in Old Haymarket about 70 yards south of Byrom Street ;

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together with all such approaches 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 the Corporations may enter upon take use and appropriate the subsoil and undersurface of any public street road footway or place shown on the deposited plans and described in the deposited book of reference or so much thereof as shall be necessary for the purposes of this Act without being required to purchase the same or any easement therein or thereunder or to make any payment therefor.

6. Subject to the provisions of this Act the Corporations may for the purposes of and in connection with the works by this Act authorised stop up in the borough the whole or part of Monk Street and the whole or part of the portion of Albion Street which is situate between Market Place South and Market Street :

Power to stop up streets.

Provided that the provisions for the protection of the Postmaster-General contained in section 6 (Power to stop up streets) of the Act of 1925 shall apply to the power conferred by this section.

7. In executing the works by this Act authorised the Corporations 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 :

Power to deviate.

Provided that nothing in this section contained shall authorise the Corporations to deviate from the said line so that any part of the works shall extend under the front wall (above the street level) of any house

A.D. 1928. — or building abutting upon any street under and along which the works are constructed unless such house or building shall have been purchased by the Corporations or the consent in writing of the owners lessees and occupiers thereof shall have been first obtained but this proviso shall not apply in any case where the Corporations shall acquire an easement or right of using the subsoil.

Applica-  
tion of  
certain  
existing  
provisions.

8. The following provisions of the Act of 1925 and the Act of 1927 shall extend and apply for the purposes of this Act as if those provisions were with the necessary modifications re-enacted in this Act (that is to say):—

The Act of 1925—

Section 7 (Power to break up and alter streets and tramways);

Section 16 (Power temporarily to stop up or interfere with streets);

Section 17 (Vesting of soil of streets stopped up);

Section 18 (Underpinning of houses near works);

Section 19 (Power to pump water and use sewers for removing water);

Section 20 (Power to alter ventilating shafts);

Section 21 (Power to alter sewers and drains);

Section 22 (Alteration of position of water gas and other pipes);

Section 23 (Power to alter steps areas &c. and execute protective works);

Section 24 (Laying out repair and lighting of works);

Section 25 (No mains or pipes to be laid in tunnel);

Section 26 (Power to sell materials);

Section 30 (As to private rights of way over lands taken compulsorily);

Section 31 (Compensation in case of recently altered buildings);

Section 32 (Benefits to be set off against compensation);

Section 33 (Correction of errors in deposited plans and book of reference);

- Section 34 (Power to enter upon property for survey and valuation); A.D. 1928.
- Section 35 (Persons under disability may grant easements &c.);
- Section 36 (Agreements with owners of property);
- Section 37 (Purchase of lands by agreement);
- Section 38 (Retention and disposal of lands);
- Section 39 (Power to develop lands &c.);
- Section 40 (Proceeds of sale of surplus lands);
- Section 41 (Undertaking to be exempt from rates);
- Section 42 (Agreements with Mersey Docks and Harbour Board);
- Section 43 (Compensation for damage by user of tunnel);
- Section 48 (For protection of Liverpool Gas Company); and
- Subsections (2) and (3) of section 57 (For protection of Postmaster-General).

The Act of 1927—

- Section 7 (As to discharge of water from tunnel alteration):

Provided that for the purposes of such application—

- (a) any references in the said sections to “the tunnel” shall be construed as references to the tunnel alterations; and
- (b) the said section 31 shall be read and have effect as if “the first day of November one thousand nine hundred and twenty-seven” were inserted therein in lieu of “the first day of April one thousand nine hundred and twenty-five.”

9. If the tunnel alterations are 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 Corporations for making and completing the tunnel alterations or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Period for completion of works.

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Abandonment of portions of authorised tunnel.

**10.**—(1) The Corporations may abandon the construction of so much of the authorised tunnel as comprises the following portions of the tunnel or tunnels and approaches Work No. 1 described in and authorised by the Act of 1925 (that is to say) :—

(a) The portion thereof situate in the borough between a point on the south-western side of Bridge Street at or near the junction of that street with Chester Street and a point in Hamilton Square 65 yards east of the Queen Victoria Memorial;

(b) The portion thereof situate in the city between the west side of Castle Street and the termination of the said Work No. 1 at or near the junction of Whitechapel and Stanley Street.

(2) The abandonment by the Corporations under the authority of this Act of the said portions of the authorised tunnel shall not prejudice or affect the right of the owner or occupier of any land to receive compensation for any damage occasioned by the entry of the Corporations or the Joint Committee on such lands for the purpose of surveying and taking levels or probing or boring to ascertain the nature of the soil or setting out the line of the authorised tunnel and shall not prejudice or affect the right of the owner or occupier of any land which has been temporarily occupied by the Corporations or the Joint Committee to receive compensation for such temporary occupation or for any loss damage or injury which has been sustained by such owner or occupier by reason thereof or of the exercise as regards such lands of any of the powers contained in the Railways Clauses Consolidation Act 1845 or the Act of 1925.

(3) Where before the passing of this Act any contract has been entered into or notice given by the Corporations or the Joint Committee for the purchasing of any land for the purposes of or in relation to any portion of the authorised tunnel to be abandoned by this Act the Corporations and the Joint Committee shall be released from all liability to purchase or to complete the purchase of any such lands but notwithstanding full compensation shall be made by the Corporations or the Joint Committee to the owners and occupiers or other persons interested in such lands for all injury or damage



sustained by them respectively by reason of the purchase not being completed pursuant to the contract or notice and the amount and application of the compensation shall be determined in manner provided by the Lands Clauses Acts for determining the amount and application of compensation paid for lands taken under the provisions thereof. A.D. 1928.

**11.** The provisions of section 27 (Owners may be required to sell parts only of certain properties) of the Act of 1925 shall with the necessary modifications extend and apply for the purposes of this Act relating to the tunnel alterations with the substitution of a reference to the properties described or referred to in the First Schedule to this Act for the properties described or referred to in the Second Schedule to the Act of 1925. Owners may be required to sell parts only of certain premises.

**12.** The provisions of section 28 (Owners may be required to grant easements only) of the Act of 1925 shall with the necessary modifications extend and apply for the purposes of this Act relating to the tunnel alterations with the substitution of a reference to the properties described or referred to in the Second Schedule to this Act for the properties described or referred to in the Third Schedule to the Act of 1925. As to easements for tunnel alterations.

**13.** The powers granted by this Act for the compulsory purchase of lands shall cease on the thirty-first day of October one thousand nine hundred and thirty-one. Period for compulsory purchase of lands.

**14.** Nothing in this Act shall authorise the Corporations to enter upon take or use (except by agreement) any cellar or vault in or under any street belonging to or connected with any building unless such cellar or vault or the building with which it is connected is described in the deposited book of reference. Provision as to cellars under streets not referenced.

**15.** For the protection of the Mersey Docks and Harbour Board (in this section referred to as "the board") the following provisions shall unless otherwise agreed in writing between the Corporations and the board have effect (that is to say):— For protection of Mersey Docks and Harbour Board.

The Corporations shall not under the powers of this Act pump or discharge directly or indirectly into the River Mersey any water or effluent containing solid matter nor directly or indirectly into the Great Culvert Birkenhead any water or effluent whatsoever:

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Provided that this section shall have effect subject to and shall not derogate from the powers conferred by section 7 (As to discharge of water from tunnel alteration) of the Act of 1927 as extended and applied for the purposes of this Act.

For protection of Mersey Railway Company.

**16.** The following provisions for the protection of the Mersey Railway Company (in this section referred to as "the company") shall unless otherwise agreed between the Corporations and the company apply and have effect (that is to say) :—

- (1) The provisions of section 44 of the Act of 1925 except subsection (6) thereof shall extend and apply to and for the purposes of this Act and the works thereby authorised as if those provisions with any necessary modifications were re-enacted in this section :
- (2) The Corporations shall construct and thereafter maintain Work No. 4 authorised by this Act where it passes over the company's tunnels in accordance with the line levels and dimensions shown on the plan and sections dated the ninth day of February one thousand nine hundred and twenty-eight and signed by Basil Mott on behalf of the Corporations and Joshua Shaw on behalf of the company :
- (3) In the exercise of the powers of this Act no blasting operations shall be carried out by the Corporations within a distance from the tunnels of the company to be agreed in writing between the engineer of the Corporations and the engineer of the company or failing agreement to be determined by arbitration :
- (4) The Corporations shall at the request of the company execute and maintain such works and make such provision as shall from time to time be necessary to strengthen and protect the company's tunnels and works in order to prevent injury thereto by or in consequence of the construction use maintenance or failure of the Work No. 4 authorised by this Act or any works in connection therewith Such works shall be executed and maintained and such provision shall be made in accordance with plans

sections and specifications submitted to and reasonably approved in writing by the company and any work in or affecting the company's tunnels and works shall be executed at such times as the company may reasonably require :

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- (5) Notwithstanding anything in this Act contained the Corporations shall be responsible for and make good to the company all costs losses damages and expenses which may be occasioned to the company or to any of their railways works or property or to the traffic thereon or otherwise by reason of the construction repair work of maintenance or failure of Work No. 4 authorised by this Act or any works in connection therewith or by the acts or defaults of any of the persons in the employ of the Corporations or of their contractors or others and the Corporations shall effectually indemnify and hold harmless the company from all claims and demands made upon or against them by reason of such construction repair work of maintenance failure or default.

**17.** In executing the works by this Act authorised the Corporations shall not interfere with any railways or works belonging to the London Midland and Scottish Railway Company or the Great Western Railway Company or those companies jointly except with the consent of such company or companies as the case may be.

For protection of London Midland and Scottish and Great Western Railway Companies.

**18.** Notwithstanding anything contained in this Act or shown on the deposited plans and sections or described in the deposited book of reference the following provisions for the protection of J. Lyons and Company Limited or other the lessees for the time being of the premises numbered on the deposited plans 256 in the city (in this section respectively referred to as "the company" and "the protected premises") shall unless otherwise agreed in writing between the Corporations and the company also apply and have effect (that is to say) :—

For protection of J. Lyons and Company Limited.

- (1) No part of the tunnel alterations within one hundred feet of any part of the protected premises shall be constructed otherwise than in accordance with such plans sections and specifications as the company may reasonably approve :

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(2) In case of any damage to the protected premises caused by any subsidence owing to the works of the Corporations which takes place during the construction of the tunnel alterations or during the carrying out of any work of maintenance thereof the Corporations shall indemnify the company for any loss arising therefrom :

(3) Any difference which shall arise between the company and the Corporations under this section shall be determined by an arbitrator to be appointed on the application of either party by the President of the Institution of Civil Engineers and subject thereto the provisions of the Arbitration Act 1889 and any statutory re-enactment or modification thereof for the time being in force shall apply to any such arbitration.

For  
protection  
of West-  
minster  
(Liverpool)  
Trust  
Company  
Limited.

**19.** For the protection of the Westminster (Liverpool) Trust Company Limited its successors and assigns as lessees of the buildings and premises in this section mentioned (all of whom are in this section included in the expression "the company") the following provisions shall notwithstanding anything contained in this Act or shown on the deposited plans and unless otherwise agreed in writing between the Corporations and the company apply and have effect (that is to say) :—

(1) In the event of the tunnel alterations being constructed under any part of the building and premises of the company known as Westminster Chambers numbers 1 and 3 Crosshall Street 86 to 98 Dale Street and 2 to 10 Preston Street Liverpool and numbered on the deposited plans 283 in the city whether above or underground not being under the surface of Dale Street or Preston Street or the footpaths thereof no part of the tunnel alterations within one hundred feet of any part of the said building and premises of the company shall be constructed otherwise than in accordance with plans to be agreed upon between the Corporations and the company or failing such agreement to be settled by arbitration in accordance with the provisions of this section :

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- (2) If any damage to the said building and premises of the company is caused by any subsidence owing to the works of the Corporations which takes place during the construction of the tunnel alterations or during the carrying out of any work of maintenance thereof the Corporations shall indemnify the company its lessees and tenants for any loss arising therefrom :
- (3) In constructing the tunnel no blasting operations shall take place or explosives be used within one hundred and fifty feet of the said building and premises of the company :
- (4) In the event of any works of the Corporations being constructed under any part of the said building and premises of the company not being under the surface of Dale Street or Preston Street or the footpaths thereof the company's engineer shall from time to time have the right of inspecting such works during the construction thereof and reasonable facilities shall be given to him for that purpose and the reasonable fees and expenses of the company's engineer under this subsection shall be paid by the Corporations :
- (5) Any difference which shall arise between the company and the Corporations under this section shall be determined by an arbitrator to be appointed on the application of either party by the President of the Institution of Civil Engineers and subject thereto the provisions of the Arbitration Act 1889 and any statutory re-enactment or modification thereof for the time being in force shall apply to any such arbitration.

**20.** For the protection of the Liverpool Corporation the following provisions shall apply and have effect (that is to say) :—

For protection of Liverpool Corporation.

- (1) Notwithstanding anything contained in this Act or shown on the deposited plans and sections the Corporations shall not except by agreement

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with the Liverpool Corporation enter upon take or use any lands or property belonging to or required by the Liverpool Corporation and situate between the junction of Dale Street and Manchester Street and the termination of Work No. 5 by this Act authorised but the Corporations may purchase and take and the Liverpool Corporation shall sell and grant an easement or right of using so much of the said lands or property belonging to them as may be necessary for the construction maintenance and user in accordance with the provisions of this Act of the said Work No. 5 :

- (2) Nothing in this Act shall exempt the Corporations from the provisions of section 277 (Elevation of new buildings fronting to street) of the Liverpool Corporation Act 1921 and that section shall apply to the entrance to the tunnel forming part of Work No. 5 by this Act authorised as if it were a new building within the meaning of that section.

## PART III.

## FINANCE.

Borrowing powers under Act of 1925 to be applicable for purposes of this Act.

**21.** The powers of borrowing conferred upon the Liverpool Corporation by the Act of 1925 for the purposes of that Act shall extend and apply to the purposes of this Act (including the raising and payment of the costs charges and expenses referred to in the section of this Act of which the marginal note is "Costs of Act" as if the same were costs charges and expenses of the Act of 1925) and the provisions of Part V (Finance) of the Act of 1925 shall apply mutatis mutandis as if the purposes of this Act were purposes of the Act of 1925 and as if the works by this Act authorised had been authorised by the Act of 1925.

Application of provisions as to differential rating.

**22.** The provisions of section 82 (Differential rating of certain railways and canals) of the Act of 1925 shall extend and apply in relation to the purposes of this Act as well as to the purposes of the Act of 1925 and the Act of 1927.

PART IV.

A.D. 1928.

MISCELLANEOUS.

**23.** The provisions of Part III (Constitution and powers of Joint Committee &c.) and of Part IV (Tolls byelaws &c.) of the Act of 1925 as amended by the Act of 1927 shall extend and apply to the authorised tunnel as altered by this Act.

Parts III and IV of Act of 1925 to apply to tunnel as altered.

**24.** Subsection (2) of section 59 (For further protection of Mersey Railway Company) of the Act of 1925 as extended by the Act of 1927 shall be read and have effect as if the Liverpool Central (Low Level) station of the company had been mentioned therein instead of the James Street station of the company and the provisions of section 59 of the Act of 1925 as amended by this section shall extend and apply to the works and purposes authorised by this Act.

For further protection of Mersey Railway Company.

**25.** The powers conferred by this Act upon the Corporations shall be exercised for them and on their behalf by the Joint Committee.

Powers conferred upon Corporations to be exercised by Joint Committee.

**26.** The costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed and ascertained by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Joint Committee out of moneys to be borrowed by the Liverpool Corporation for the purposes of this Act.

Costs of Act.

A.D. 1928.

The SCHEDULES referred to in the foregoing Act.

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**THE FIRST SCHEDULE.**

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DESCRIBING PROPERTIES WHEREOF PORTIONS ONLY MAY BE TAKEN COMPULSORILY.

Area.	Numbers on deposited Plans.
County Borough of Birkenhead	26 58 60 69 101 107 109 169
City of Liverpool	283 to 286 303 322 to 324 338 339 341 344.

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**THE SECOND SCHEDULE.**

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DESCRIBING PROPERTIES UNDER WHICH EASEMENTS ONLY MAY BE TAKEN.

Area.	Numbers on deposited Plans.
City of Liverpool	252 254 to 261.

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