



## CHAPTER clii.

An Act for making tunnels, subways, and roadways partly  
under the River Mersey between Liverpool and Birken-  
head. [6th August 1880.]

A.D. 1880.

**W**HEREAS the making and maintaining of the tunnels, subways,  
and roadways herein-after mentioned, for the purpose of  
establishing an uninterrupted means of transit for passengers and  
carriages under the River Mersey between the city of Liverpool  
and the borough of Birkenhead would be attended with public and  
local advantage :

And whereas the persons herein-after named, together with others,  
are willing at their own expense to carry the undertaking into  
execution, and it is expedient that they and all other persons sub-  
scribers to or proprietors in the undertaking should be incorporated  
into a company for that purpose :

And whereas it is expedient that powers to contribute to the  
undertaking should be conferred on the mayor, aldermen, and  
citizens of the city of Liverpool, and the mayor, aldermen, and  
burgesses of the borough of Birkenhead, and the Mersey Docks  
and Harbour Board respectively, and that provision should be made  
in a certain event for transferring the undertaking to a board of  
commissioners or other public trust :

And whereas plans and sections showing the lines and levels of  
the intended tunnels, subways, roadways, and other works, and the  
lands, houses, and other property which may be taken for the  
purposes of this Act, together with books of reference to such plans  
containing the names of the owners or reputed owners, lessees or  
reputed lessees, and of the occupiers of such lands, houses, and other  
property, have been deposited for public inspection with the respec-  
tive clerks of the peace for the counties of Lancaster and Chester,  
and such plans, sections, and books of reference are in this Act  
respectively referred to as the deposited plans, sections, and books  
of reference :

[Ch. clii.] *Liverpool and Birkenhead Subway* [43 & 44 VICT.]  
*Act, 1880.*

A.D. 1880. — And whereas the objects aforesaid cannot be effected 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 title. 1. This Act may be cited as the *Liverpool and Birkenhead Subway Act, 1880.*

Incorporation of general Acts.

8 & 9 Vict. c. 16.  
26 & 27 Vict.  
c. 118.  
8 & 9 Vict. c. 18.  
23 & 24 Vict.  
c. 106.  
32 & 33 Vict. c. 18.

2. The Companies Clauses Consolidation Act, 1845, Parts I. and III. (relating respectively to cancellation and surrender of shares and debenture stock) of the Companies Clauses Act, 1863, the Lands Clauses Consolidation Acts, 1845, 1860, and 1869, are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction ; the expression "the Company" means the Company incorporated by this Act, and the expression "superior courts" or "court of competent jurisdiction," or any other like expression in this Act or any Act wholly or partially incorporated herewith, shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt, and not a debt or demand created by statute.

Incorporation of Company.

4. Christopher Bushell, William Blain, George Busk Crow, David Duncan, Walter L. Gladstone, John Hartley Hind, William Jackson, John Laird, William Laird, Charles Grey Mott, James Aspinall Tobin, and all other persons and corporations who have already subscribed to or shall hereafter become proprietors in the undertaking, and their executors, administrators, successors, or assigns respectively, shall be and are hereby united into a company for the purpose of making and maintaining the tunnels, subways, and roadways, and for other the purposes of this Act, and for those purposes shall be and are hereby incorporated by the name of "The Liverpool and Birkenhead Subway Company," and by that name shall be a body corporate with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act.

5. Subject to the provisions of this Act, the Company may make and maintain, in the line and according to the levels shown on the deposited plans and sections, the tunnels, subways, and roadways herein-after described, with all proper ventilating and other shafts, driftways, abutments, landing and entrance stairs, retaining and other walls, approaches, works, and conveniences connected therewith or requisite therefor, and may enter upon, take, and use such of the lands delineated on the deposited plans and described in the deposited books of reference as may be required for that purpose: Provided always, that nothing in this Act shall empower the Company without the consent of the Mersey Docks and Harbour Board to enter upon, take, or use any of the lands or estate of that Board, but the Company may take and the said Board shall, if required, grant to the Company an easement under or through any lands of the said Board for making all or any of the tunnels, subways, and roadways herein-after described in the manner authorised by this Act, and such easement shall be deemed to be lands within the meaning and for the purposes of the Lands Clauses Consolidation Acts, 1845, 1860, and 1869. The works herein-before referred to and authorised by this Act are:

A.D. 1880.  
Power to  
make sub-  
ways, &c.

1. A tunnel, subway, and roadway partly under the River Mersey, commencing in the extra-parochial chapelry of Birkenhead, in the borough of Birkenhead, in Canning Street, at a point 25 yards or thereabouts, measuring in a westerly direction, from the intersection of Canning Street with Taylor Street, and terminating in the parish of Liverpool, in the city of Liverpool, at a point 25 yards or thereabouts, measuring in a westerly direction, from the intersection of James Street with Back Goree:
2. A tunnel, subway, and roadway wholly situate in the extra-parochial chapelry of Birkenhead, in the borough of Birkenhead, commencing at a point at the west corner of the enclosure of the garden in Hamilton Square, and terminating by a junction with the intended tunnel, subway, and roadway No. 1 beneath the roadway of Hamilton Square, at a point 40 yards or thereabouts, measuring in a southerly direction, from the intersection of Cleveland Street with Argyle Street:

The said tunnels, subways, roadways, and works connected therewith respectively, will be situate within the extra-parochial chapelry of Birkenhead, the borough of Birkenhead, and county of Chester, the parish of Liverpool, the city of Liverpool, and county of Lancaster, or some of them.

[Ch. clii.] *Liverpool and Birkenhead Subway* [43 & 44 VICT.]  
*Act, 1880.*

A.D. 1880.

Company not  
to deviate  
to south of  
centre line of  
Subway  
No. 1.

Provision in  
relation to  
Mersey  
Railway  
Company's  
shaft at  
Birkenhead.

Provisions  
relating to  
works in  
Liverpool.

6. In constructing the tunnel, subway, and roadway No. 1, where the same is situate under the River Mersey the Company shall not deviate to the south of the centre line of that subway as shown on the deposited plans.

7. No part of the tunnels, subways, and roadways, or of the works connected therewith, whether temporary or permanent, shall be carried nearer to the northern side of the Mersey Railway Company's existing shaft, situate in a field in the extra-parochial chapelry of Birkenhead, numbered 76 on the deposited plans, than ten feet, so long as the same is used by that railway company.

8. In constructing within the city of Liverpool the tunnel, subway, and roadway No. 1, and relative works by this Act authorised (herein-after called the said subway), the Company shall and may, notwithstanding anything in this Act, conform to and observe the following provisions, regulations, and restrictions, and the same shall have effect within the said city, that is to say,

(1.) The Company shall not, between the west side of the street called George's Dock Gate and the terminus within the city of Liverpool, alter the centre line of the said subway as shown by the deposited plans and sections, or deviate in any respect either laterally or vertically in making the said subway from the lines or levels shown on the deposited plans and sections, except so far as may be necessary to comply with the provisions of this section, or with the consent of the mayor, aldermen, and citizens of the city of Liverpool, in this section called the Corporation, signified in writing under the hand of the town clerk.

(2.) The Company shall not alter the level of any part of Brunswick Street, except to raise the same to the extent of not exceeding 1 foot 8 inches from the present upper surface of the pavement to the upper surface thereof when altered at the point A. shown upon the plan signed by the Right Honourable Charles Henry Baron Clinton, the Chairman of the Committee of the House of Lords to which the Bill for this Act was referred; and the Company shall not alter the level of any other part of the street or of the Goree or Back Goree, except to the extent and in conformity with the gradients herein-after mentioned and shown upon the said plan:

(a.) The gradient of Brunswick Street from the Goree to the centre of the said subway to be not steeper in any part than 1 in 30, and from the latter point, rising eastwardly, at a gradient not steeper in any part than 1 in 200:

[43 & 44 VICT.] *Liverpool and Birkenhead Subway* [Ch. clii.]  
Act, 1880.

- (b.) The gradient of Back Goree shall not be steeper in any part than 1 in 50 longitudinally : A.D. 1880.
- (c.) The gradients of the Goree shall not be steeper in any part than 1 in 80 longitudinally, and 1 in 57 crosswise from west to east.
- (3.) The Company shall alter the line of Brunswick Street to the northwards between the Goree and Back Goree to an extent not exceeding 7 feet on each side thereof as shown upon the said plan, provided that the width of the carriageway and footways of Brunswick Street shall be not less respectively than as at present.
- (4.) The Company shall, in lieu of the covered footway on the east side of the Goree, or of so much thereof as shall be interfered with, construct, and complete to the reasonable satisfaction of the Corporation, and in such line and at such level and with such junctions with the remaining part or parts of the said footway as the Corporation require, on the west side of and adjoining the said subway, a footway of equal width with the present footway and co-extensive with so much of the said footway as shall be interfered with in the execution of the works.
- (5.) No part of the said subway or works shall extend beyond the south end of the warehouse numbered 138 on the deposited plans, and no alteration of the footway and street or open space at the south end of the said warehouse shall be made, except the formation of a carriage crossing 22 feet in width across the said footway, so as to allow carts and carriages to enter the said subway.
- (6.) The Company shall not, without the consent of the Corporation under the hand of the town clerk, use gunpowder or any other explosive substance in the construction of any portion of the works in the city of Liverpool which are within 30 feet of the present surface of the ground as shown on the deposited sections, and the Corporation are hereby authorised to give the required consent subject to such conditions as to them may seem expedient, and subject to the payment and satisfaction by the Company of all damages, costs, and expenses to be sustained or incurred by any person or persons by the use of gunpowder or any other explosive substance, such damages to be recovered by action in any court of competent jurisdiction.
- (7.) The Company shall not, without the consent of the Corporation, signified in writing under the hand of the town clerk,

[Ch. clii.] *Liverpool and Birkenhead Subway* [43 & 44 VICT.]  
*Act, 1880.*

A.D. 1880.

- construct in any street or public place any temporary or permanent ventilating shaft, or any other shaft, eye, or work, nor shall they interfere with the traffic along any such street except with such consent as aforesaid.
- (8.) The Company shall, as and when required by the Corporation signified in writing under the hand of the town clerk, remove any shaft, eye, or other works which may with the consent of the Corporation have been constructed in any street or public place, and well and sufficiently to the satisfaction of the Corporation restore the surface of such street or public place, and maintain in efficient repair the said surface so restored for the period of twelve months to the like satisfaction.
- (9.) Before interfering with any street, road, passage, or public place for the purpose of altering the line or level thereof in accordance with the provisions of this Act, the Company shall give to the Corporation seven days previous notice in writing, and the work shall be done under the direction of the Corporation.
- (10.) Where the surface of any street, road, passage, or public place has been interfered with or disturbed by the Company in constructing the works or performing operations by this Act authorised, the Company shall well and sufficiently and to the reasonable satisfaction of the Corporation restore the surface so interfered with or disturbed, and so much of the surface of any other street, court, passage, or public place adjoining such street as aforesaid as it shall be rendered necessary to alter by such interference, and shall maintain in efficient repair the said surfaces respectively for twelve months to the like satisfaction.
- (11.) In every case where the level of any street, road, passage, or public place is altered by the Company, the portion of such street, road, passage, or public place of which the level shall be altered shall be paved and flagged and in all respects completed at the expense of the Company, and to the reasonable satisfaction of the Corporation.
- (12.) Wherever any street, road, passage, or public place shall be temporarily diverted or stopped up or obstructed by the Company in the execution of the works by this Act authorised, proper accommodation for the traffic and accesses to property shall be previously provided to the reasonable satisfaction of the Corporation, and shall be thereafter, during such diversion, stoppage up, or obstruction, maintained, fenced, watched, and

[43 & 44 VICT.] *Liverpool and Birkenhead Subway* [Ch. clii.]  
*Act, 1880.*

lighted by the Company to the satisfaction of the Corporation, or, at the option of the Corporation, to be signified at any time and from time to time to the Company, by the Corporation at the expense of the Company. A.D. 1880.

- (13.) Whenever the Company desire to interrupt or interfere with any existing sewer or drain, or with the overflow from the Water Street sewer, they shall, before interrupting or interfering with such existing sewer, drain, or overflow, construct at their own expense, according to a plan to be approved of by the Corporation, another sewer, drain, or overflow in lieu of and of equal capacity with the sewer, drain, or overflow so proposed to be interrupted or interfered with, and such new and substituted sewer, drain, or overflow shall be connected by and at the expense of the Company with any existing sewers or drains which were connected with the sewer, drain, or overflow so interrupted or interfered with, and in such manner as shall be approved of by the Corporation.
- (14.) If by reason of the construction of the said subway any increased length or altered dimensions of sewers or drains or overflows, or any manholes, airholes, or other works or conveniences connected therewith, shall become necessary, the same shall be constructed by and at the expense of the Company of such capacity, upon such plans, and in such manner as shall be approved of by the Corporation.
- (15.) If by reason of the construction of the said subway the Corporation shall at any time reasonably incur any cost in altering any existing sewer or drain, the Company shall repay to the Corporation such additional cost, and the same may be recovered in default of payment in any court of competent jurisdiction.
- (16.) When any existing sewer, drain, or overflow, new or substituted sewer, drain, or overflow, or altered sewer, drain, or overflow, shall be so situated that convenient access thereto may in the opinion of the Corporation be obtained through the property or works of the Company, the Company shall, when required by the Corporation, make and maintain such access, and the Corporation shall, by their officers, workmen, and servants, be at liberty at all reasonable times to use the same for any purpose for which it may be necessary.
- (17.) The provisions of the Railways Clauses Consolidation Act, 1845, contained in the sections 18 to 23 inclusive, shall apply to the mains and pipes, watercourses, and water pipes of the 8 & 9 Vict. c. 20.

A.D. 1880.

Corporation; and whenever in those sections the words "Company" or "Society" are used, the same shall for all the purposes of the said Act be held to extend to and include the Corporation.

- (18.) The Company shall not, without the consent of the Corporation in writing under the hand of the town clerk, sever or interfere with any main or water pipe of the Corporation so as to interfere with the supply of water by the Corporation until the Company have given to the Corporation one month's notice in writing of their intention so to sever or interfere with such main or water pipe; and upon any such notice being given the Corporation, if they think fit, may at the expense of the Company provide and lay down any additional or substituted mains or water pipes which the Corporation think necessary for maintaining such water supply.
- (19.) If by reason of the execution of any of the powers of this Act any increased length of mains or water pipes shall become necessary, the same shall be provided and laid down by the Corporation at the expense of the Company upon such plan and in such manner as shall be approved of by the Corporation.
- (20.) Wherever by the appropriation or destruction of property by this Act authorised any mains or water pipes laid for the supply of such property shall be rendered unnecessary, the Company shall pay to the Corporation the cost of laying such length of main or water pipe as may be required in lieu thereof, and the cost of the works required for the discontinuation of those mains or water pipes rendered unnecessary to such amount as shall be estimated by the water engineer, and the mains and water pipes so rendered unnecessary shall be the property of the Company.
- (21.) In any case where any house or building intended to remain standing shall be severed, or any party wall or back wall shall be exposed by the Company, the Company shall to the reasonable satisfaction of the Corporation build up or repair such house or building, party wall or back wall, so as to prevent unsightly appearance.
- (22.) Wherever by this Act it is provided that anything may be done with the consent or approval of the Corporation, or shall not be done without such consent or approval, such consent or approval may be given, subject to such lawful conditions and provisions as the Corporation think fit to make, and the giving of such consent or approval shall not prejudice any right of the



Corporation (except as may be provided thereby), or of any other body corporate, persons or person, to compensation under the provisions of this Act or the incorporated Acts. A.D. 1880.

(23.) The Company shall from time to time pay to the Corporation and the parish of Liverpool all sanitary, municipal, parochial, and other rates or assessments leviable by or payable to the Corporation, sanitary authority, and parish respectively, upon the respective assessments of any lands or property shown upon or described or numbered in the deposited plans or books of reference, or a proportion of such rates respectively from the time such lands or property respectively shall be acquired by the Company until the Company's works are completed and assessed to such sanitary, municipal, parochial, and other rates respectively; and the amount of such rates payable by the Company shall be computed according to the assessments of such lands or property in force at the time of such acquisition, notwithstanding that the buildings thereon or forming part thereof may have been taken down.

(24.) The Corporation or the watch committee of the council of the city of Liverpool may, if they think fit, from time to time authorise any constable or constables belonging to the police force of the city to enter all or any parts of the said subway within the city or parish of Liverpool, and there to exercise or perform all or any of the same duties which he or they might exercise or perform in any public street or place in the city; and every constable so authorised shall (except as otherwise directed by the Corporation or the watch committee) have all the same powers and duties as in any such public street or place.

9. Notwithstanding that the deposited plans and the limits of deviation defined on such plans extend to and include streets, roads, passages, and public places, or portions thereof, within the borough of Birkenhead, it shall not be lawful for the Company to stop up, appropriate, or acquire the said streets or roads, or any of them, or any portion thereof respectively, without the previous consent of the mayor, aldermen, and burgesses (herein called the Corporation of Birkenhead) under the hand of the town clerk of the said borough. Streets, &c. in Birkenhead not to be interfered with without consent of the Corporation of Birkenhead.

10. In constructing the tunnels, subways, and roadways Nos. 1 and 2, and works by this Act authorised, within the borough of Birkenhead (herein-after called "the said subways"), the Company Provisions as to stopping up of streets, &c. in Birkenhead.

A.D. 1880. — shall conform to and observe the following provisions, regulations, and restrictions; that is to say,

- (1.) They shall not, without the consent of the Corporation of Birkenhead signified in writing under the hand of the town clerk of the said borough, construct in any street any shaft, eye, or other work, nor shall they interfere with the traffic along any such street except with consent as aforesaid.
- (2.) They shall, as and when required by the Corporation of Birkenhead signified under the hand of the town clerk, remove any shaft, eye, or other works which they may have constructed in any street, and well and sufficiently to the satisfaction of that Corporation restore the surface of such street, and maintain in efficient repair the said surface so restored for the period of twelve months to the like satisfaction.
- (3.) Whenever it may be necessary to interrupt or interfere with any existing sewer or drain, they shall, before interrupting or interfering with such existing sewer or drain, construct, according to a plan to be reasonably approved of by the Corporation of Birkenhead, another sewer or drain in lieu of and of equal capacity with the sewer or drain so proposed to be interrupted or interfered with, and such new and substituted sewer or drain shall be connected by and at the expense of the Company with any existing sewers or drains which were connected with the sewer or drain so interrupted or interfered with, and in such manner as shall be approved of by that Corporation :
- (4.) If by reason of the construction of the said subways any increased length of sewers or drains shall become necessary, the same shall be constructed by and at the expense of the Company of such capacity, upon such plan, and in such manner as shall be reasonably approved by the Corporation of Birkenhead.
- (5.) If by reason or in consequence of the construction of the said subways the Corporation of Birkenhead shall at any time necessarily incur any cost in altering any existing sewer or drain, the Company shall repay to that Corporation such additional cost, and the same may be recovered in default of payment in any court of competent jurisdiction.
- (6.) When any existing sewer or drain, new or substituted sewer or drain, or altered sewer or drain shall be so situated that convenient access thereto may be obtained through the property or works of the Company, the Company shall when required by the Corporation of Birkenhead make and maintain such

access, and that Corporation shall by their officers, workmen, and servants be at liberty at all times to use such access for any purpose for which it may be necessary.

- (7.) The Company shall not, without the consent of the Corporation of Birkenhead under the hand of the town clerk, use gunpowder or any other explosive substance in the construction of the said subways in so far as situate on the Birkenhead side of the River Mersey.
- (8.) Before interfering with, obstructing, or breaking up any street, road, passage, or place, the Company shall give to the Corporation of Birkenhead seven days previous notice in writing, and shall adopt all such means as that Corporation may reasonably require to prevent as much as possible the total stoppage of or any unnecessary interference with the traffic or use of such street, road, passage, or place, or any avoidable inconvenience or annoyance, and the work, so far as affects such interference, obstruction, or breaking up as aforesaid, shall, if so required by the Corporation of Birkenhead, be done under the direction of that Corporation.
- (9.) Whenever any street, road, passage, or place shall have to be temporarily diverted by the Company in the execution of the works by this Act authorised, proper accommodation for the traffic and accesses to property shall be provided, maintained, fenced, watched, and lighted by the Company to the reasonable satisfaction of the Corporation of Birkenhead.
- (10.) The provisions of the Railways Clauses Consolidation Act, 1845, contained in the sections 18 to 23 inclusive, shall apply to the watercourses, water pipes, and gas pipes of the Corporation of Birkenhead; and whenever in those sections the words "Company" or "Society" are used, the same shall for all the purposes of the said Act be held to extend to and include that Corporation.
- (11.) Whenever the mains or pipes of the Corporation of Birkenhead shall be severed or interfered with by the works authorised by this Act, all such additional mains, pipes, or other works as may be necessary for maintaining the supply of water or gas shall be made, laid, and done by that Corporation at the expense of the Company, and as far as practicable before the existing mains or pipes are severed or interfered with.
- (12.) If by reason of the execution of any of the powers of this Act any increased length of mains or pipes shall become necessary, the same shall be laid down by the Corporation of Birkenhead at the expense of the Company upon such plan

A.D. 1880.

and in such manner as shall be reasonably approved by that Corporation.

(13.) Wherever by the appropriation or destruction of property by this Act authorised any mains or pipes laid for the supply of such property with water or gas shall be rendered unnecessary, the Company shall pay to the Corporation of Birkenhead the cost of laying an equivalent length of main or pipe, and the cost of the works required for discontinuing the mains or pipes rendered unnecessary, to such amount as shall be estimated by the water or gas engineer of that Corporation, and the mains and pipes so rendered unnecessary shall be the property of the Company.

(14.) The Company shall indemnify the Corporation of Birkenhead from or with respect to any loss or damage they may sustain or incur by, through, or in consequence of any of the works of the Company under this Act.

Protection  
of London  
and North-  
western and  
Great  
Western  
Railway  
Companies.

11. For the protection of the London and North-western and Great Western and Shropshire Union Railway Companies the Company shall observe, perform, and be bound by the following stipulations and provisions; namely,

(1.) With respect to the tunnel, subway, and roadway, No. 1 (in this section referred to as the said subway), the Company shall not acquire or interfere with any part of the property in the extra-parochial chapelry of Birkenhead No. 1 on the deposited plans without their taking the whole thereof, unless the London and North-western Railway Company and the Great Western Railway Company (in this section referred to as the two companies), the joint owners of such property, shall by writing under their common seals otherwise agree.

(2.) The Company shall not, in constructing and maintaining the said subway where it will be carried under the said property No. 1, and alongside of any other property of the two companies in Birkenhead, and under the Manchester Dock and the Chester and Ellesmere Basin, being the properties in Liverpool Nos. 97, 98, 99, 100, 101, 104, 105, 106, 106a, respectively, on the deposited plans, deviate from the levels shown on the deposited sections to a greater extent upwards than five feet, unless as to the said property in Birkenhead with the like consent of the two companies, and as to the said properties in Liverpool with the like consent of the London and North-western Railway Company and of the Shropshire Union Railways and Canal Company (in this section referred to as the London and

North-western Company and the Shropshire Union Company respectively), as they may be accordingly interested therein as lessees or occupiers. And the Company shall so construct and maintain the subway No. 1 under the said properties in Liverpool so that a minimum depth of fifty-five feet shall intervene between the surface of the ground of the said properties and the crown of the arch of the said subway, unless the London and North-western Company and the Shropshire Union Company, as the case may require, shall with the like consent agree to a less depth. A.D. 1880.

- (3.) The said subway, where the same will be carried under the said property No. 1, and alongside of any other property of the two companies in Birkenhead, shall be constructed only according to plans, sections, and specifications to be reasonably approved in writing by the respective principal engineer of the two companies, but in all things at the expense of the Company.
- (4.) The Company shall, so far as regards the estate and interest of the London and North-western Company and the Shropshire Union Company respectively in the said properties in Liverpool acquire only an easement therein. The sum to be paid for the acquisition of such easement shall be ascertained in case of difference in the manner prescribed by the Lands Clauses Consolidation Act, 1845, with respect to the purchase of land otherwise than by agreement.
- (5.) The Company shall at all times at their own expense maintain the structure of the said subway where the same will be carried under, alongside, or near to any property of the two companies in Birkenhead or the said properties in Liverpool in substantial repair and good order and condition.
- (6.) The Company shall at all times save harmless and keep indemnified the two companies and the London and North-western Company and the Shropshire Union Company respectively as the case may require from and against all claims, losses, liabilities, costs, and expenses which those companies may respectively sustain or be put to by reason of the Birkenhead Railway, or any of the bridges thereof or thereover, or the said dock, basin, warehouses, sheds, storehouses, or other property in Liverpool being in any manner injuriously affected or damaged by subsidence or otherwise by the construction or maintenance of the said subway, or the failure of any of the works thereof or connected therewith, and whether such injury or damage shall arise during or after the construction of the

[Ch. clii.] *Liverpool and Birkenhead Subway* [43 & 44 VICT.  
Act, 1880.

A.D. 1880.

said subway; and if any such injury or damage shall arise the Company shall immediately thereupon at their expense in all things make good the same to the reasonable satisfaction in all respects of the respective principal engineers of the two companies, or the London and North-western Company, or the Shropshire Union Company, as the case may require; and in case the Company shall make default in that behalf, those companies respectively may make good such injury or damage, and recover in manner aforesaid, together with full costs, the amount of their respective expenditure certified by such respective principal engineer.

(7.) If any dispute or difference arise between the Company and the two companies, or the Company and the London and North-western Company and the Shropshire Union Company respectively, with respect to or arising out of any of the matters referred to in this section, the same shall from time to time be determined by arbitration in manner provided by the Railway Companies Arbitration Act, 1859.

22 & 23 Vict.  
c. 59.

Capital.

**12.** The capital of the Company shall be five hundred thousand pounds in fifty thousand shares of ten pounds each.

Shares not  
to be issued  
until one-  
fifth part  
paid up.

**13.** The Company shall not issue any share created under the authority of this Act, nor shall any such share vest in the person or corporation accepting the same, unless and until a sum not being less than one fifth of the amount of such share is paid in respect thereof.

Calls.

**14.** One fifth of the amount of a share shall be the greatest amount of a call, and two months at the least shall intervene between successive calls.

Receipt  
clause in case  
of persons  
not sui juris.

**15.** If any money is payable to a shareholder being a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Power to  
borrow on  
mortgage.

**16.** The Company may from time to time borrow on mortgage any sum or sums of money not exceeding in the whole one hundred and sixty-five thousand pounds; but no part thereof shall be borrowed until the whole of the said capital of five hundred thousand pounds is issued and accepted and one half thereof is paid up, and the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act, 1845, before he so certifies, that the whole of such capital has been issued and accepted, and that one half thereof has been paid up, and that not less than one-fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the

[43 & 44 VICT.] *Liverpool and Birkenhead Subway* [Ch. cli.]  
Act, 1880.

time of the issue or acceptance thereof, and that such capital was issued bonâ fide, and is held by the persons or corporations to whom the same was issued, or their executors, administrators, successors, or assigns, and that such persons or corporations, their executors, administrators, successors, or assigns are legally liable for the same; and upon production to such justice of the books of the Company, and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which shall be sufficient evidence thereof.

A.D. 1880.

17. The mortgagees of the Company may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of arrears of principal, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than ten thousand pounds in the whole.

Appointment  
of receiver.

18. The Company may create and issue debenture stock, subject to the provisions of Part III. of the Companies Clauses Act, 1863; but, notwithstanding anything therein contained, the interest of all debenture stock at any time created and issued by the Company shall rank pari passu with the interest of all mortgages at any time granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Debenture  
stock.

19. All moneys raised under this Act, whether by shares, debenture stock, or borrowing, shall be applied for the purposes of this Act only.

Application  
of moneys.

20. The first ordinary meeting of the Company shall be held within three months next after the passing of this Act.

First and  
subsequent  
meetings.

21. The number of directors shall be twelve, but the Company may from time to time reduce the number, provided that the number be not less than five.

Number of  
directors.

22. The qualification of a director shall be the possession in his own right of fifty shares.

Qualification  
of directors.

23. The quorum of a meeting of directors shall be five while the number of directors is more than five, and three if the number of directors be reduced to five.

Quorum of  
directors.

24. Christopher Bushell, George Busk Crow, David Duncan, Walter L. Gladstone, William Jackson, William Laird, Charles Grey Mott, James Aspinall Tobin, and four other duly qualified persons to be nominated in that behalf by them, or the majority of them, and consenting to such nomination, shall be the first directors

First  
directors.

A.D. 1880.

Election of  
directors.

of the Company, and shall continue in office until the first ordinary meeting held after the passing of this Act. At that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act, or nominated as aforesaid, or any of them, or may elect a new body of directors or directors to supply the places of those not continued in office, the directors appointed by this Act, or nominated as aforesaid, being, if qualified, eligible for re-election; and at the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present personally or by proxy shall elect persons to supply the places of the directors then retiring from office, agreeably to the provisions of the Companies Clauses Consolidation Act, 1845; and the several persons elected at any such meeting, being neither removed nor disqualified, nor having died or resigned, shall continue to be directors until others are elected in their stead in manner provided by the same Act.

Lands for  
extra-  
ordinary  
purposes.

**25.** In addition to the lands herein-before authorised to be taken by the Company, the Company may purchase by agreement, in connexion with the tunnels, subways, and roadways, any quantity of land near or adjoining thereto not exceeding two acres for the extraordinary purposes specified in section 45 of the Railways Clauses Consolidation Act, 1845; and for the purposes of this Act the word "railway" in that section shall be taken to mean and be read as referring to the tunnels, subways, and roadways.

Period for  
compulsory  
purchase of  
lands.

**26.** The powers of the Company for the compulsory purchase of lands, or for taking easements under or through lands for the purposes of this Act, shall not be exercised after the expiration of five years from the passing of this Act.

Correction  
of errors in  
deposited  
plans and  
books of  
reference.

**27.** If there be any omission, mis-statement, 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 books of reference, the Company, 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 of Lancaster or Chester (as the case may be) for the correction thereof; and if it appear to the justices that the omission, mis-statement, 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 mis-stated or wrongly described, and such certificate shall be deposited with the clerk of the peace for the county of Lancaster or Chester (as the case may be), and a duplicate thereof shall also be deposited with the town clerk of the



city of Liverpool, or with the town clerk of the borough of Birkenhead (as the case may be), and such certificate and duplicate respectively shall be kept by such clerks of the peace and town clerks respectively with the other documents to which the same relate, and thereupon the deposited plans and books of reference shall be deemed to be corrected according to such certificate, and the Company may take the lands and execute the works in accordance with such certificate.

A.D. 1880.

**28.** Copies of the deposited plans and sections, and of the deposited books of reference, or of any alteration or correction thereof, or extract therefrom, certified by the clerk of the peace for the county of Lancaster or Chester (as the case may be), which certificate such clerk of the peace respectively shall give to all parties interested when required, shall be received in all courts of justice or elsewhere as *prima facie* evidence of the contents thereof.

Copies of plan, &c., or alterations to be evidence.

**29.** Subject to the provisions of this Act, in making the tunnels, subways, and roadways, the Company may deviate from the respective lines thereof shown on the deposited plans to any extent within the limits of deviation shown thereon: Provided always, that no such deviation shall extend into the lands of any person whose name is not mentioned in the deposited books of reference without his previous consent, unless his name is omitted by mistake, and the fact that the omission proceeded from mistake be certified as by this Act is provided for cases of unintentional errors in the books of reference.

Lateral deviations.

**30.** Subject to the provisions of this Act, the Company in making the tunnels, subways, and roadways may deviate from the levels thereof as referred to the datum line shown on the deposited sections to any extent that the Company may think fit: Provided always, that the Company shall not in making such deviation alter or in any manner interfere with the existing bed of the River Mersey.

Vertical deviations.

**31.** Provided also, that nothing in either of the two immediately preceding sections of this Act shall authorise the Company in any way to take any easement under or through, or to interfere with, or disturb, or remove any part of the subsoil of any part of the lands or estate of the Mersey Docks and Harbour Board at Birkenhead which is above the level of fifteen feet below the datum level of Old Dock Sill at Liverpool, or of any part of the lands or estate of the said Board at Liverpool which is above the level of twenty-three feet below the said datum level.

Company not to interfere with subsoil of lands belonging to the Mersey Docks and Harbour Board.

A.D. 1880.  
—  
Mersey  
Docks and  
Harbour  
Board to be  
indemnified.

**32.** The Company shall at all times save harmless and keep indemnified the Mersey Docks and Harbour Board from and against all claims, losses, liabilities, costs, and expenses which that Board may sustain or be put to by reason of any of the docks, walls, quays, roadways, bridges, buildings, or other property of the said Board being in any manner injuriously affected or damaged, by subsidence or otherwise, by the construction or maintenance of the tunnels, subways, and roadways by this Act authorised, or the failure of any of the works thereof or connected therewith, and whether such injury or damage shall arise during or after the construction of the works; and if any such injury or damage shall arise, the Company shall immediately thereupon at their expense in all things make good the same to the reasonable satisfaction in all respects of the principal engineer for the time being of the said Board; and in case the Company shall make default in that behalf, the said Board may make good such injury or damage, and recover in any court of competent jurisdiction, together with full costs, the amount of their expenditure certified by such principal engineer. If any dispute or difference arise between the Company and the said Board with respect to or arising out of any of the matters in this section, the same shall from time to time be determined by arbitration in manner provided by the Railway Companies Arbitration Act, 1859, and for the purposes of this section the expression "railway companies" in that Act shall be taken to mean and be read as referring to the Company and the said Board.

Company  
empowered  
to underpin  
or otherwise  
strengthen  
houses or  
buildings.

**33.** And whereas, in order to avoid injury to the houses and buildings within one hundred feet of the tunnels, subways, and roadways, it may be necessary to underpin or otherwise strengthen the same, therefore the Company may at their own costs and charges underpin or otherwise strengthen any such house or building: Provided that at least ten days notice shall (unless in case of emergency) be given to the owner, lessee, and occupier of the house or building intended to be underpinned or otherwise strengthened (each such notice to be left on the premises), and that the Company shall be liable to compensate the owner, lessee, and occupier of every such house or building for any inconvenience, loss, or damage which may result to them by reason of the exercise of the powers granted by this enactment: Provided also, that if the owner, lessee, or occupier of any such house or building shall give within seven days after that notice counternotice in writing that he disputes the necessity of such underpinning or strengthening, the question of the necessity shall be referred to a civil engineer to be agreed upon, or, in case of difference, to a civil engineer to

be appointed at the instance of either party by the Board of Trade, and such referee shall forthwith, upon the application of either party, proceed to inspect such house or building, and determine the matter referred to him; and in the event of his deciding that such underpinning or strengthening is necessary, he may in his discretion prescribe the mode in which the same shall be executed, and the Company may and shall proceed forthwith to underpin or strengthen the said house or building, and the cost of such referee shall be paid by the Company, and the cost of the reference (other than the cost of the referee) shall be in the discretion of the referee: Provided that nothing in this enactment contained, nor any dealing with the property in pursuance of this enactment, shall relieve the Company from the liability to compensation under section 68 of the Lands Clauses Consolidation Act, 1845, or under any other Act: Provided also, that every case of compensation to be ascertained under this Act shall be ascertained according to the provisions contained in the Lands Clauses Consolidation Act, 1845.

A.D. 1880.

**34.** With respect to any lands which the Company are by the provisions of this Act authorised to enter on, take, and use for the purposes of the tunnels, subways, roadways, and works authorised by this Act, and which are in or under the roadway or footway of any street, road, or highway, the Company shall not be required wholly to take those lands, or any part of the surface thereof, or any cellar, vault, or other construction therein or thereunder held or connected with any house in any such street, road, or highway; but the Company may purchase, take, and use, and the owners of and other persons interested in those lands shall sell and grant to the Company a perpetual and exclusive easement or right of using the substrata or lands under such cellars, vaults, and other constructions as aforesaid, and if need be the Company may purchase, take, and use, and the owners of and other persons interested in any cellar, vault, or other construction, shall sell the same for the purposes of the said tunnels, subways, roadways, and works; and the purchase of any such easement, cellar, vault, or construction, shall not in any case be deemed the purchase of a part of a house or other building or manufactory within section 92 of the Lands Clauses Consolidation Act, 1845.

Company to acquire easements only under cellars, &c., with certain exceptions.

**35.** In exercising the powers by this Act conferred upon the Company within the township and parish of Liverpool the following provisions for the protection of the Liverpool United Gaslight Company (herein-after called "the Liverpool Gas Company") shall

Protection of Liverpool United Gas Company.

A.D. 1880. be binding upon the Company, and full effect shall be given thereto :

- (1.) Before removing or displacing any main, pipe, plug, or other work of the Liverpool Gas Company, or doing anything which may cause any impediment to the passage of gas through any of the said mains or pipes, the Company shall, at their own expense, in all things provide and lay in lieu thereof and ready for use good and sufficient mains, pipes, plugs, and other works proper and sufficient for continuing the supply of gas, as sufficiently and satisfactorily as the same was supplied by the mains or pipes proposed to be removed or displaced; and all such mains, pipes, and other works shall be laid and done under the superintendence and control and to the reasonable satisfaction of the Liverpool Gas Company's engineer, and in such places, position, and manner in all respects as he shall require and approve; and all such substituted mains, pipes, and other works shall belong to and be and become the absolute property of the Liverpool Gas Company. And the engineer and other officers, servants, and workmen of the Liverpool Gas Company shall at all times have and be entitled to free access to such of the said mains, pipes, and other works as may be on the premises of the Company for the purpose of examining, repairing, altering, or removing the same, or for any other lawful purpose :
- (2.) The Company shall make good all damage which may be done to any mains, pipes, works, or other property of the Liverpool Gas Company, and shall save them harmless from all expenses, loss, or damage to be occasioned by or by reason of the works authorised by this Act, and shall make full compensation to the Liverpool Gas Company and to all other persons for any loss or damage which they respectively may sustain by reason of any interference with or disturbance of the said mains, pipes, or other works, or with the private service pipes of any person or persons supplied with gas by the Liverpool Gas Company :
- (3.) The Company shall not remove or interfere with any main, pipe, or other work of the Liverpool Gas Company until they shall have given to the last-mentioned Company's engineer fourteen days previous notice in writing of their intention so to do, specifying all necessary particulars relating thereto, nor until the Liverpool Gas Company shall have signified their approval of the same, unless they do not signify such approval or their disapproval, or other directions within fourteen days

after serving of the said notice and particulars; and the Company shall comply with and conform to all reasonable requirements, directions, and regulations of the Liverpool Gas Company in the execution of the said works, and shall provide in such manner as the Liverpool Gas Company shall reasonably require for the protection of and prevention of injury or impediment to the mains, pipes, and other works of the Liverpool Gas Company.

A.D. 1880.

**36.** So much of the tunnels, subways, and roadways by this Act authorised as is situate below the bed of the River Mersey, and all or any temporary or permanent works connected therewith, shall be executed according to a plan and upon a site within the limits of deviation to be approved by the Board of Trade in writing under the hand of one of their secretaries or assistant secretaries, and subject to such restrictions and regulations as the Board of Trade may from time to time require; and no works shall be executed in the River Mersey so as to affect or interfere with, permanently or otherwise, the bed or shores of that river.

Plans of subways, &c. to be approved by Board of Trade.

**37.** If the tunnels, subways, and roadways are not completed within seven years from the passing of this Act, then on the expiration of that period the powers by this Act granted to the Company for making and completing the same, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Period for completion of works.

**38.** The Company shall, not less than eight weeks before they take in any parish fifteen houses or more occupied either wholly or partially by persons belonging to the labouring classes as tenants or lodgers, make known their intention to take the same by placards, handbills, or other general notice placed in public view upon or within a reasonable distance from such houses, and the Company shall not take any such houses until they have obtained the certificate of a justice that it has been proved to his satisfaction that the Company have made known their intention to take the same in manner herein-before required.

Notice to be given of taking houses of labouring classes.

**39.** The Company may from time to time demand and take for each person passing through the tunnels, subways, and roadways, any sum not exceeding one penny.

Tolls for passengers.

**40.** The Company may from time to time demand and take the tolls specified and set forth in the schedule hereto in respect of all traffic passing through the tunnels, subways, and roadways, other than passenger traffic.

Tolls for other traffic.

[Ch. ciii.] *Liverpool and Birkenhead Subway* [43 & 44 Vict.]  
Act, 1880.

A.D. 1880.

Double tolls  
may be levied  
between  
11 p.m. and  
5 a.m.

Power to  
provide toll-  
gates and  
toll-houses.

Tolls not to  
be taken till  
the Company  
have put up  
a list thereof.

Recovery  
of tolls.

Disputes as  
to tolls to be  
settled by  
justices.

Power to  
lease tolls,  
&c.

Power to  
compound

41. Provided always, that the Company may, if they think fit, demand and take double tolls for passengers and for other traffic of every description passing through the tunnels, subways, and roadways between the hours of eleven o'clock at night and five o'clock in the morning.

42. The Company may from time to time set up toll-gates at or upon the tunnels, subways, and roadways, not being in or upon any part of any public highway or place over which the public have any right of passage or use, and remove the toll-gates and set up others in lieu thereof as they think fit, and may from time to time provide and maintain such toll-houses, offices, advertising stations, and other conveniences in connexion with their undertaking, as may be necessary.

43. The Company shall affix on the front of each of the said toll-houses a board or boards containing a list of the tolls respectively payable thereat by virtue of this Act, and the Company or any of their toll collectors shall not collect or receive any toll at any toll-house where such board or boards shall not for the time being be affixed.

44. The tolls shall be paid before any person or vehicle shall be entitled to pass or repass through any toll-gate, and if any person shall fail to pay any toll to the payment of which he is liable, after demand made thereof by any collector appointed to receive the same, such collector may by himself, or taking such assistance as he thinks necessary, prevent the passage of the person so failing; and any person who without having paid or tendered the proper toll shall endeavour forcibly to pass or repass through any toll-gate shall for every such offence be liable to a penalty not exceeding forty shillings.

45. If any dispute arise concerning any toll, such dispute shall be determined by a justice, who shall on application made to him determine the same, and make such order therein, and award such costs to either party, as to him shall seem proper.

46. The Company may from time to time lease the tolls by this Act authorised, or any other portion of their undertaking, to any person willing to accept a lease thereof, for such period and upon such terms as may be agreed on between the Company and such person, provided that no such lease shall be made for a period exceeding three years.

47. The Company may compound and agree for any term not exceeding one year at any one time with any person using the

[43 & 44 VICT.] *Liverpool and Birkenhead Subway* [Ch. clii.]  
*Act, 1880.*

tunnels, subways, and roadways for the passage of any such person or of any traffic other than passenger traffic through the tunnels, subways, and roadways, provided that such composition shall be paid in advance. All such composition money shall be applied as part of the revenue of the Company. Composition money shall be at all times charged at equal amounts to all persons in respect of the same description of traffic. A.D. 1880.  
the payment  
of tolls.

**48.** Every person who shall demand or take greater tolls than those authorised to be taken under the provisions of this Act shall for every such offence be liable to a penalty not exceeding forty shillings. Penalty on  
taking a  
greater toll  
than autho-  
rised by this  
Act.

**49.** The tunnels, subways, and roadways shall be deemed public within the meaning and for the purposes of the Acts from time to time in force with respect to malicious injuries to public property. Protection  
of subways.

**50.** If any person wilfully commits any of the following offences; (that is to say,) Penalty for  
evading tolls,  
damaging  
subways, &c.

- Evades payment of any toll by this Act authorised;
- Obstructs the passage of the tunnels, subways, and roadways;
- Loiters without reasonable cause in any of the tunnels, subways, and roadways;
- Wilfully or carelessly breaks or damages any part of the tunnels, subways, and roadways, or toll-houses, or anything fixed thereto;

he shall for each offence incur a penalty not exceeding forty shillings.

**51.** Any penalty by this Act imposed may be recovered by summary proceeding before two justices either of the county of Lancaster or the county of Chester, or before the stipendiary magistrate of Liverpool or of Birkenhead, in manner provided by the Summary Jurisdiction Act, 1879, for the recovery of penalties imposed by that Act. Recovery of  
penalties.  
  
42 & 43 Vict.  
c. 49.

**52.** The powers conferred on the Company for the making, altering, or repealing byelaws by the Companies Clauses Consolidation Act, 1845, shall extend to and include all such byelaws as may be requisite or necessary for the regulation of traffic of every description passing through the tunnels, subways, and roadways: Provided always, that no byelaws nor the alteration or repeal of any byelaw shall have effect unless confirmed by the Board of Trade, and no such byelaw shall be repugnant to or be construed to override or interfere with any byelaw for the time being in force in the city Byelaws.

[Ch. cliv.] *Liverpool and Birkenhead Subway* [43 & 44 Vict.]  
*Act, 1880.*

A.D. 1880. of Liverpool, and made under the provisions of the Municipal Corporations Act, the Public Health Act, or any local Act.

Corporations of Liverpool and Birkenhead and Mersey Docks Board may subscribe.

**53.** The mayor, aldermen, and citizens of the city of Liverpool, and the mayor, aldermen, and burgesses of the borough of Birkenhead respectively (herein-after called "the Corporations of Liverpool and Birkenhead") (out of their respective city fund and borough fund, but not out of capital), and the Mersey Docks and Harbour Board (herein-after called "the Dock Board"), or one or more of them, may subscribe or contribute funds towards the capital of the Company, and may respectively take and hold shares therein to any extent not exceeding the sum of one hundred and twenty-five thousand pounds each, or they may respectively guarantee the payment of interest, dividend, annual or other payments on shares or stock of the Company of an amount not exceeding that sum, or the principal and interest of any loan of equivalent amount which may be raised by the Company under the powers of this Act; and the Corporations of Liverpool and Birkenhead may respectively apply to all or any of such purposes their respective city fund and borough fund for the time being, and the Dock Board may apply to all or any of such purposes any funds now or hereafter belonging to them or under their control which may not be properly applicable to any other special purpose.

Undertaking may be transferred to a public trust.

**54.** If within twelve months after the passing of this Act the Corporations of Liverpool and Birkenhead and the Dock Board jointly, or one or more of them, shall have subscribed or contributed to the undertaking by this Act authorised, and shall intimate to the Company in writing their desire that the undertaking should be transferred to a board of commissioners or other public trust to be constituted for the purpose of carrying the same into effect, the Company shall convey and transfer the undertaking to such commissioners or trust upon such terms and conditions as may be agreed upon or as may be prescribed by Parliament in any Act constituting such commissioners or trust, and authorising such conveyance and transfer.

Act to apply in event of transfer of undertaking.

**55.** In the event of a transfer of the undertaking being made to a board of commissioners or other public trust as aforesaid, such commissioners or trust shall be subject to the provisions of this Act with respect to the construction, maintenance, use, and making of the tunnels, subways, and roadways, and shall perform and observe all the obligations and conditions by this Act imposed on the Company in so far as applicable in the same manner and to the same



extent and effect as if such board or trust had been authorised by this Act to carry out the undertaking. A.D. 1880.

56. And whereas it is expedient that this Act should contain certain provisions relative to lands, hereditaments, estates, rights, and interests belonging to the Queen's most Excellent Majesty in right of Her Duchy of Lancaster (in the rest of this section called "the Duchy," ) as are herein-after contained: Be it therefore enacted that—

Provisions as to property of the Duchy of Lancaster.

- (1.) With respect to any lands belonging to Her Majesty in right of the Duchy which may be required for the purposes of this Act, the following provisions shall (but subject and without prejudice to any lease or tenancy which at the time of any agreement authorised by this section may be subsisting in the said last-mentioned lands) have effect; that is to say, the Chancellor and Council for the time being (herein-after called "the Chancellor and Council") of the Duchy may agree with the Company for the absolute sale in fee simple of all or any of the said last-mentioned lands, or any part thereof, in consideration of any such gross sum of money, or of such annual rentcharge, or in consideration partly of such gross sum and partly of such annual rentcharge payable by the Company, and upon such terms and conditions in all respects as shall be settled between the Chancellor and Council and the Company; and in case the same lands shall be subject jointly with any other lands to any lease or tenancy for a life or lives, or a term of years unexpired, the Chancellor and Council may agree as well with the Company as also with the lessee or tenant for the apportionment of the rent payable in respect of the lands comprised in such lease or tenancy between the lands agreed to be sold and such other lands. And upon payment of such (if any) agreed gross sum, and upon such (if any) agreed rentcharge being secured in manner herein-after provided, the Chancellor and Council may grant and assure the same lands and the fee simple and inheritance thereof to the Company, their successors and assigns, for the purposes of this Act, and (if the same lands shall be subject jointly with any other lands to any such lease or tenancy as aforesaid) may apportion, or concur with all other necessary parties in apportioning, the rent payable in respect of the lands comprised in such lease or tenancy between the lands so granted and assured and such other lands:
- (2.) With respect to any such lands held by copy of court roll or other customary tenure of any honour, manor, or lordship

A.D. 1880.

belonging to Her Majesty in right of the Duchy as may be required for the purposes of this Act, the following provisions (but subject and without prejudice to any lease or tenancy which at the time of any agreement authorised by this section may be subsisting of the same honour, manor, or lordship) shall have effect; that is to say,

The Chancellor and Council may agree with the Company for the enfranchisement of all or any of the said last-mentioned lands, and for the release thereof from all or any of the customary fines, rents, suits, and services which the same may be charged with or liable to, in consideration of such gross sum of money or of such annual rentcharge, or in consideration partly of such gross sum and partly of such annual rentcharge payable by the Company, and upon such terms and conditions in all respects as shall be settled between the Chancellor and Council and the Company :

And in case the same lands shall be liable jointly with any other lands to any such aforesaid rents, suits, or services, the Chancellor and Council may agree as well with the Company as also with the tenant or proprietor of such other lands for the release or apportionment of such rents, suits, and services, either with or without any consideration being paid for the same :

Upon any such agreement for enfranchisement, release, or apportionment, and upon payment of such (if any) agreed gross sum, and upon such (if any) agreed rentcharge as last aforesaid being secured in manner herein-after provided, the Chancellor and Council may release the lands so to be enfranchised or released from all customary fines, rents, suits, and services, or (as the case may be) such of them or such part or parts thereof as shall have been in that behalf agreed, and the lands so released shall thenceforth be holden by the Company, their successors and assigns, as of the honour, manor, or lordship whereof they are or were holden or parcel in free and common socage. And every such release of lands, if made previously to the purchase or acquisition by the Company of the estate and interest of the copyhold or customary tenant of such lands, shall after such purchase or acquisition operate and take effect as if the Company had been in possession of the same lands at the time of the execution of such release :

Provided that no such enfranchisement, release, or apportionment shall in any other respects affect any custom by or under

which any copyhold or customary lands not required for the purposes of this Act shall be holden : A.D. 1880.

And whenever any such aforesaid release of lands shall be made, any other lands which were previously subject jointly with the released lands to any such rents, suits, and services as aforesaid shall, as between the Company and Her Majesty in right of the Duchy (but expressly without prejudice to any right of contribution in respect of such rents, suits, or services which previously to such release the tenant or proprietor of such other lands may have had against the tenant or proprietor of the released lands) thenceforth be subject to the whole of such rents, suits, and services, or (as the case may be) to such of them, or such parts or part thereof as shall not have been comprised in and intended to be extinguished by that release, in the same manner in all respects as the entirety of the lands so previously subject as aforesaid would have continued subject to the whole of such rents, suits, and services if such release had not been made; and all the rights, powers, and remedies subsisting previously to such release for the recovery of the whole of the said rents, suits, and services shall, as against the lands not so released, be and thenceforth remain as between the Company and Her Majesty in right of the Duchy (but without prejudice as aforesaid) as available and as valid and effectual in the law to all intents for the recovery of the same rents, suits, and services, or (as the case may be) such of them, or such parts or part thereof as shall not have been comprised in and intended to be extinguished by the same release, as if the said last-mentioned lands had originally been alone subject to the same rents, suits, and services, or such of them, or such parts or part thereof as last aforesaid :

(3.) With respect to any lands, being waste or common lands, the right to the soil whereof belongs to Her Majesty in right of the Duchy (subject to rights of common or other rights or easements) which may be required for the purposes of this Act, the following provisions shall have effect; that is to say,

The Chancellor and Council may agree with the Company for the absolute sale in fee simple of the estate, right, and interest of Her Majesty in the soil of all or any of the same lands, and for the absolute extinguishment of any commonable or other rights to which Her Majesty in right of the Duchy may be entitled in the same lands (other than and besides Her said right in the soil of such lands), in consideration of such gross

A.D. 1880.

sum of money, or of such annual rentcharge, or in consideration partly of such gross sum and partly of such annual rentcharge payable by the Company, and upon such terms and conditions in all respects as shall be settled between the Chancellor and Council and the Company :

And upon payment of such (if any) agreed gross sum as last aforesaid, and upon such (if any) agreed rentcharge as last aforesaid being secured in manner herein-after provided, the Chancellor and Council may grant and assure such last-mentioned estate, right, and interest to the Company, their successors and assigns, for the purposes of this Act :

Provided that the lands so granted and assured as last aforesaid shall remain subject to all the commonable and other rights (except those of Her Majesty, her heirs and successors) which immediately before such grant and assurance affected the same until such rights shall have ceased and become extinguished by the payment or deposit of the compensation for the same in manner provided by the Lands Clauses Consolidation Acts, 1845, 1860, and 1869 :

(4.) With respect to any mines, minerals, and quarries to which Her Majesty in right of the Duchy is entitled (either in possession or subject to any lease or tenancy) in, under, or upon any lands required for the purposes of this Act, the following provisions (but subject and without prejudice to any lease or tenancy which at the time of any agreement authorised by this section may be subsisting of the same mines, minerals, or quarries) shall have effect ; that is to say,

The Chancellor and Council, either before or after the execution of the works authorised by this Act, or any part thereof, may agree with the Company for the absolute sale of all or any of the said mines, minerals, and quarries for such price or consideration in money, and upon such terms and conditions in all respects as shall be settled between the Chancellor and Council and the Company ; and upon payment of such agreed price or consideration as last aforesaid in manner herein-after provided, the Chancellor and Council may grant and assure such last-mentioned mines, minerals, and quarries unto the Company, their successors and assigns, for the purposes of this Act. The Chancellor and Council may also enter into any agreement with the Company concerning the working by Her Majesty, her heirs, successors, and assigns, of all or any of the said mines, minerals, or quarries, whether being in, under, or

upon any lands taken by the Company under the powers of this Act: A.D. 1880.

Provided that nothing contained in this Act shall extend or operate to prevent or hinder Her Majesty, her heirs, successors, or assigns, or her or their lessees from working (subject and without prejudice only to any such agreement as last aforesaid) as well before as after the execution of the works authorised by this Act any such mines, minerals, or quarries, whether being in, under, upon, or in the neighbourhood of any lands taken by the Company under the powers of this Act, nor shall anything in this Act contained extend or operate to make Her Majesty, her heirs, successors, or assigns in any way liable for any damage or injury which may be done to or on the works authorised by this Act by any such working, unless and except only to such extent as the Chancellor and Council shall have expressly agreed in writing with the Company that the Duchy shall become so liable:

Provided also, that it shall not be lawful for the Company, their successors or assigns, by reason of any aforesaid grant or assurance of mines, minerals, or quarries, to work, get, or use any of the same, except so far as may be necessary in executing the works authorised by this Act:

(5.) With respect to any gross sum of money which under this section shall become payable in consideration of any sale, enfranchisement, or release thereby authorised, the following provisions shall have effect; that is to say,

Each such sum shall be paid into the hands of the Receiver General of the revenues of the Duchy, or of his deputy or deputies, and a receipt shall be given by him or them for the same:

And such sum shall be applicable and dealt with to all intents and purposes as if it were the purchase money of lands sold by the Chancellor and Council under the authority of the Duchy of Lancaster Lands Act, 1855; and the Chancellor and Council shall for the purposes of this Act have and be entitled to the benefit of all such powers and provisions in reference to moneys invested in Bank Annuities under this present section as under the Duchy of Lancaster Lands Act, 1855, they are entitled to concerning moneys invested in Bank Annuities under that Act: 18 & 19 Vict.  
c. 58.

(6.) With respect to any annual rentcharge which under this section shall become payable in consideration of any sale,

[Ch. cliv.] *Liverpool and Birkenhead Subway* [43 & 44 VICT.]  
*Act, 1880.*

A.D. 1880.

enfranchisement, or release by this section authorised, the following provisions shall have effect; that is to say,

Each such annual rentcharge shall be a perpetual rentcharge, and shall be such charge on the tolls or rates payable under this Act, and shall be recoverable in like manner as by the Lands Clauses Consolidation Acts, 1845, 1860, and 1869, provided concerning the rentcharges thereby authorised to be granted, and shall, if the Chancellor and Council think fit, be otherwise secured in such manner as may be settled between the Chancellor and Council and the Company.

And the same shall be limited to the use of Her Majesty, her heirs and successors, in right of the Duchy, and shall vest in her and them in the same right as fully and effectually as the lands or hereditaments which shall be granted, assured, or released in consideration of the same annual rentcharge stood vested in her and them immediately before such grant and assurance thereof:

Provided that every such annual rentcharge shall be subject to the same application to all intents and purposes as the rents and profits of the said lands or hereditaments to be granted and assured in consideration thereof would be subject if the same lands or hereditaments had not been so granted and assured:

Provided also, that notwithstanding anything contained in the Railway Companies Act, 1867, no money borrowed by the Company on mortgage, or bond, or debenture stock under the provisions of any Act authorising the borrowing thereof, shall have priority over or affect any claim of Her Majesty, her heirs or successors, against the Company, their successors or assigns, or against their property for the time being in respect of any such last-mentioned rentcharge:

(7.) Any lands, hereditaments, estate, right, or interest conveyed or assured, or released by the Chancellor and Council by virtue of any of the foregoing provisions of this section shall be so conveyed, assured, or released in the name of Her Majesty, her heirs or successors, in right of the Duchy, and by deed or writing under the seal of the Duchy, and every such deed or writing shall be enrolled in the Court of the Duchy of Lancaster within six calendar months from the date thereof.

30 & 31 Vict.  
c. 127.

As to future  
accretions.

**57.** If any land not required for the purposes of this Act shall, at any time after the execution of any works under the authority of this Act, become raised in height or reclaimed, or by any other means cease to be subject to the flow and reflow of the ordinary

tides, or to be permanently covered with water (and that whether gradually or imperceptibly, or otherwise), the Company shall not, by virtue of the ownership of any lands which they are by virtue of this Act empowered to take or acquire, have any estate, right, or interest in or to the land so raised in height or reclaimed, or ceasing to be so subject or to be so covered as aforesaid, by reason that such raising, reclamation, or cesser has been gradual or imperceptible, or has been wholly or partially caused either by the works by this Act authorised or otherwise.

A.D. 1880.

**58.** Nothing contained in this Act shall authorise the Company to take, use, or in any manner interfere with any portion of the shore or bed of the sea, or of any river, channel, creek, bay, or estuary, or any right in respect thereof belonging to the Queen's most Excellent Majesty either in right of her Crown, and under the management of the Board of Trade, or in right of her Duchy of Lancaster, without the previous consent in writing of the Board of Trade on behalf of Her Majesty in right of her Crown (which consent the Board of Trade may give), or the previous consent in writing of the Chancellor for the time being of the said Duchy on behalf of Her Majesty in right of her said Duchy (which consent such Chancellor may give), neither shall anything in this Act contained extend to take away, prejudice, diminish, or alter any of the estates, privileges, powers, or authorities vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs and successors, in right either of her Crown or of her said Duchy.

Saving rights of the Crown and the Duchy of Lancaster in the fore-shore.

**59.** Nothing contained in this Act or to be done under the authority thereof shall in any manner affect the title to any of the subjects, or any rights, powers, or authorities mentioned in or reserved by sections twenty, twenty-one, and twenty-two of the Crown Lands Act, 1866, and belonging to or exerciseable on behalf of Her Majesty, her heirs or successors.

Saving rights of Crown under 29 & 30 Vict. c. 62.

**60.** Except as herein-before expressly provided, nothing in this Act contained shall prejudice, interfere with, or affect any of the powers, jurisdiction, or privileges of the Corporations of Liverpool and Birkenhead.

Saving rights of Corporations of Liverpool and Birkenhead.

**61.** All the costs, charges, and expenses of and incident to the applying for, preparing, obtaining, and passing this Act shall be paid by the Company.

Expenses of Act.

[Ch. clii.] *Liverpool and Birkenhead Subway* [43 & 44 VICT.]  
Act, 1880.

A.D. 1880.

The SCHEDULE referred to in the foregoing Act.

TOLLS FOR ALL TRAFFIC PASSING THROUGH THE TUNNELS,  
SUBWAYS, AND ROADWAYS, OTHER THAN PASSENGER TRAFFIC.

For every omnibus, coach, chariot, phaeton, or other such like carriage drawn by two horses, including the occupants thereof	Not exceeding One Shilling.
For every gig or carriage drawn by one horse, mule, or ass, including the occupants thereof	Ninepence.
For every four-wheeled cart, van, or other such like carriage, laden or empty, drawn by two horses, mules, or asses	} One Shilling and Sixpence.
For every four-wheeled cart, van, or other such like carriage, laden or empty, drawn by one horse, mule, or ass	
For every two-wheeled cart, van, or other such like carriage, laden or empty, drawn by two horses, mules, or asses	One Shilling.
For every two-wheeled cart, van, or other such like carriage, laden or empty, drawn by one horse, mule, or ass	Sixpence.
For each extra horse, mule, or ass, drawing	Sixpence.
For each horse, mule, or ass, not drawing	Sixpence.
For each bicycle or velocipede	Sixpence.
For each boat or canoe, if conveyed by hand, including the persons carrying the same	One Shilling.
For each boat or canoe, if conveyed on wheels, including the persons drawing the same	Two Shillings.
For every hand cart, laden or empty, including one man	Threepence.
For every wheelbarrow, laden or empty, including one man	Twopence.
For every case, bale, bag, sack, barrel, or other package not conveyed by cart or barrow	Twopence.
(Except personal luggage, carried in the hand, not exceeding twenty-eight pounds in weight.)	
For every ox, bull, cow, or bullock	Sixpence.
For every calf, sheep, lamb, goat, or pig	Twopence.
For every goose, duck, turkey, or other fowl, if driven along the tunnels, &c.	One halfpenny.
For every locomotive engine	Ten Shillings.
For traffic not specially enumerated in the foregoing Schedule the Company may demand and take such tolls as shall as nearly as may be be equivalent to the tolls for the nearest similar description of traffic authorised by the Schedule.	