



CHAPTER cii.

An Act for constructing a Tunnel under the River Medina with approaches thereto to connect East and West Cowes and for other purposes. A.D. 1892.
[20th June 1892.]

WHEREAS increased facilities for the traffic between East and West Cowes in the Isle of Wight would be of local and public advantage:

And whereas it is expedient that such facilities should be provided by means of a carriage road through a tunnel under the River Medina so as not to interfere with or impede the passage of vessels and shipping up and down the said river:

And whereas the persons hereinafter named with others (in this Act referred to as "the Company") are willing at their own expense upon having the powers and authorities in this Act contained conferred upon them to establish and maintain the carriage roads tunnel and other works connected therewith in this Act specified:

And whereas plans and sections showing the lines and levels of the tunnel with the approaches and other works to be made and maintained under the authority of this Act and the lands which may be taken for the purposes thereof 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 the said lands have been deposited with the respective clerks of the peace for the Isle of Wight and county of Southampton which plans sections and books of reference are in this Act referred to as the deposited plans sections and books of reference:

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

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

Short title.

1. This Act may be cited as the Medina Tunnel Act 1892.

Incorporation of Acts.

2. The Companies Clauses Consolidation Act 1845 Part I. (relating to cancellation and surrender of shares) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 and the Lands Clauses Acts 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 the expressions "the tunnel" "the works" and "the undertaking" mean respectively the carriage roads tunnel approaches and other works and the undertaking by this Act authorised the expression "toll house" "toll houses" "toll gate" or "toll gates" means any toll gate toll house or other place erected or provided by the Company for receiving the tolls payable under 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.

Company incorporated.

4. Colonel William John Atkinson Baldwin and Sidengham Unwin Duer and all other persons and corporations who have already subscribed to or shall hereafter become proprietors in the undertaking and their executors administrators successors and assigns respectively shall be and are hereby united into a company for the purpose of making and maintaining the tunnel and for other the purposes of this Act and for those purposes shall be and are hereby incorporated by the name of "The Medina Tunnel 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.

Power to make works according to deposited plans.

5. Subject to the provisions of this Act the Company may make and maintain in the lines and according to the levels shown on the deposited plans and sections the works hereinafter described with all necessary approaches tunnels shafts buildings works and conveniences connected therewith 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 The works authorised by this Act will be situate in the parishes of Northwood and Whippingham or one of them in the Isle of Wight and county of Southampton and are as follows:—

A tunnel commencing in the parish of Northwood at a point 2 chains or thereabouts measured in a south-easterly direction from the junction of Brunswick Place with Medina Road in the town of West Cowes thence passing under the River Medina and terminating in the parish of Whippingham at a point half a chain or thereabouts measured in a northerly direction from the northern corner of the Independent Chapel otherwise described as the Congregational Church in Bridge Road in the town of East Cowes:

An approach road No. 1 in the said parish of Northwood commencing on the north-eastern side of Medina Road aforesaid at a point 3 chains or thereabouts measured in a north-westerly direction from the said junction of Brunswick Place with Medina Road and terminating at the commencement of the tunnel as above described:

An approach road No. 2 in the said parish of Whippingham commencing at the termination of the tunnel as hereinbefore described and terminating on the western side of Park Street in the town of East Cowes at a point $2\frac{1}{2}$ chains or thereabouts measured in a northerly direction from the junction of that street with Bridge Road:

A retaining wall in the said parish of Northwood commencing at a point 3 chains or thereabouts measured in a north-easterly direction from the said junction of Brunswick Place with Medina Road proceeding thence on and along the bed or foreshore of the River Medina for a distance measured in a north-westerly direction of 4 chains or thereabouts and thence in a south-westerly direction for a distance of 3 chains or thereabouts and terminating at a point a quarter of a chain or thereabouts measured in a northerly direction from the commencement of approach road No. 1 as above described:

Provided that the tunnel by this Act authorised shall be so constructed that for a distance of 75 feet in the centre of the channel of the River Medina no part of the upper portion of the tunnel shall be at a greater height than 74 feet above the datum line shown upon the deposited sections and this proviso shall not be affected or varied by the powers of deviation hereinafter contained.

6. Nothing contained in this Act shall authorise the Company during the construction of the works by this Act authorised to obstruct impede narrow or interfere with the channel or waterway of the River Medina or part thereof or reduce the depth thereof

Company
not to
obstruct
navigation.

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or any part thereof except to such an extent in such manner and for such period as may be from time to time permitted in writing by the Board of Trade under the hand of one of their secretaries or assistant secretaries and by the corporation of the borough of Newport and by the conservators for the time being of the said river and nothing contained in this Act shall authorise the Company at any time after the completion of the said works to obstruct impede narrow or interfere with the channel or waterway of the River Medina or part thereof or to reduce the depth thereof or any part thereof Provided always that the giving of any such permission as aforesaid shall not render the said Board of Trade corporation or conservators liable for any damage or injury which may be occasioned by or result from anything done by the Company in pursuance thereof.

Saving
rights of
Medina Co.
servancy
Board.

7. Nothing contained in this Act shall prevent the conservators for the time being of the River Medina from placing and maintaining moorings posts and buoys in the said river or from dredging deepening widening scouring altering and improving the course of the channel or waterway of the said river or part thereof or the bed thereof and whether immediately over the tunnel or adjacent thereto and nothing in this Act shall extend to authorise the Company to prevent or hinder any vessel from mooring or anchoring in the said river over the said tunnel nor render any person liable for any damage or injury which may be occasioned to the tunnel by reason of any vessel so mooring or anchoring.

Saving
rights of
Crown
grantees
&c.

8. Further or otherwise than as herein provided nothing herein contained shall extend to divest abridge lessen alter or in any manner affect or prejudice the seisin estate right title or inheritance (if any) of any grantees of the Crown or of any corporation company or person in or to the said River Medina or near the mouth thereof or the ground or soil and bed of the same or the shores thereof or the authority therein respectively of any corporation company or person but all such seisin estate right title and authority respectively shall continue and be preserved whole and unimpaired as if this Act had not been passed.

Capital.

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

Shares not
to be issued
until one-
fifth paid.

10. 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.

11. 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 and three-fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share. A.D. 1892.

12. If any money is payable to a shareholder or mortgagee or debenture stockholder being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be sufficient discharge to the Company. Receipt in case of persons not sui juris.

13. Subject to the provisions of this Act the Company with the authority of three-fourths of the votes of the shareholders present in person or by proxy at a general meeting of the Company specially convened for the purpose may from time to time divide any share in their capital into half shares of which one shall be called "preferred half share" and the other shall be called "deferred half share" but the Company shall not divide any share under the authority of this Act unless and until not less than sixty per centum upon such share has been paid up and upon every such division fifty per centum upon the entire share shall be carried to the credit of the deferred half share (being the whole amount payable thereon) and the residue to the credit of the preferred half share. Power to divide shares.

14. The dividend which would from time to time be payable on any divided share if the same had continued an entire share shall be applied in payment of dividends on the two half shares in manner following (that is to say) First in payment of dividend after such rate not exceeding six per centum per annum as shall be determined once for all at a general meeting of the Company specially convened for the purpose on the amount for the time being paid up on the preferred half-share and the remainder if any in payment of dividend on the deferred half share and the Company shall not pay any greater amount of dividend on the two half shares than would have from time to time been payable on the entire share if the same had not been divided. Dividend on half shares.

15. Each preferred half share shall be entitled out of the profits of each year to the dividend which may have been attached to it by the Company as aforesaid in priority to the deferred half share bearing the same number but if in any year ending the thirty-first day of December there shall not be profits available for the payment of the full amount of dividend on any preferred half-share for that year no part of the deficiency shall be made good out of the profits of any subsequent year or out of any other funds of the Company. Dividend on preferred shares to be paid out of profits of the year only.

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Half shares
to be regis-
tered and
certificates
issued.

16. Forthwith after the creation of any half shares the same shall be registered by the directors and each half share shall bear the same number as the number of the entire share certificate in respect of which it was issued and the directors shall issue certificates of the half shares accordingly and shall cause an entry to be made in the register of the entire shares of the conversion thereof but the directors shall not be bound to issue a certificate of any half share until the certificate of the existing entire share be delivered to them to be cancelled unless it be shown to their satisfaction that such certificate is destroyed or lost and on any certificate being so delivered up the directors shall cancel it.

Terms of
issue to be
stated on
certificates.

17. The terms and conditions on which any preferred half share or deferred half share created under this Act is issued shall be stated on the certificate of each such half share.

Forfeiture
of preferred
shares.

18. The provisions of the Companies Clauses Consolidation Act 1845 with respect to the forfeiture of shares for non-payment of calls shall apply to all preferred half shares created under the authority of this Act and every such preferred half share shall for that purpose be considered an entire share distinct from the corresponding deferred half share and until any forfeited preferred half share shall be sold by the directors all dividends which would be payable thereon if the same had not been forfeited shall be applied in or towards payment of any expenses attending the declaration of the forfeiture thereof and of the arrears of calls for the time being due thereon with interest.

Preferred
shares not to
be cancelled or
surrendered.
Half shares
to be half
shares in
capital.

19. No preferred half share created under the authority of this Act shall be cancelled or be surrendered to the Company.

20. The several half shares under this Act shall be half shares in the capital of the Company and every two half shares (whether preferred or deferred or one of each) held by the same person shall confer such right of voting at meetings of the Company and (subject to the provisions hereinbefore contained) shall confer and have all such other rights qualifications and privileges liabilities and incidents as attach and are incident to an entire share.

Power to
borrow.

21. The Company may from time to time borrow on mortgage of the undertaking any sum not exceeding in the whole twelve thousand five hundred pounds but no part thereof shall be borrowed until the whole capital of fifty 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

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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 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.

22. The mortgagees of the undertaking 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 one thousand pounds in the whole.

For appointment of a receiver.

23. 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 and of all mortgages at any time created and issued or granted by the Company under this or any subsequent Act shall subject to the provisions of any subsequent Act rank pari passu (without respect to the dates of the securities or of the Acts of Parliament or resolutions by which the stock and mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

Debenture stock.

24. All moneys raised under this Act whether by shares debenture stock or borrowing shall be applied only to the purposes of this Act to which capital is properly applicable.

Application of moneys.

25. The first ordinary meeting of the Company shall be held within six months after the passing of this Act.

First ordinary meeting.

26. The number of directors shall be four but the Company may from time to time reduce and again increase the number of directors but so that the number shall be never less than three nor more than four.

Number of directors.

27. The qualification of a director shall be the possession in his own right of not less than twenty-five shares.

Qualification of directors.

28. The quorum of a meeting of directors shall be three.

Quorum.

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First directors—Election of directors.

29. Colonel William John Atkinson Baldwin and Sidengham Unwin Duer and two other persons to be nominated by them and consenting to such nomination shall be the first 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 place of those not continued in office the directors appointed by this Act or nominated as aforesaid being if they continue 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 in person 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 extraordinary purposes.

30. The Company may take by agreement for the purposes of the undertaking any quantity of land not exceeding one acre but nothing in this Act shall exempt the Company from any indictment action or other proceeding for nuisance in the event of any nuisance being created or permitted by them upon any land taken under the powers of this section.

Period for compulsory purchase of land.

31. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Restriction on taking houses of labouring class.

32. The Company shall not under the powers of this Act without the consent of the Local Government Board purchase or acquire in any city borough or other urban sanitary district or in any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers.

For the purpose of this section the expression "labouring class" includes mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

33. If the works are not completed within five 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 works or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

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Period for completion of works.

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

Persons authorised to convey lands may grant easements.

35. And whereas in the construction of the tunnel and works hereby authorised or otherwise in exercise of the powers of this Act a portion only of the property numbered 5 on the deposited plans in the parish of Northwood will be sufficient for the purposes of the same and such portion may be severed from the remainder of such property without material detriment thereto Therefore notwithstanding section 92 of the Lands Clauses Consolidation Act 1845 the owners of and other persons interested in the said property may if such portion can in the opinion of the jury arbitrators or other authority to whom the question of disputed compensation shall be submitted be severed from the remainder of the said property without material detriment thereto be required to sell and convey to the Company the portion only of the property so required without the Company being obliged or compellable to purchase the whole or any greater portion thereof the Company paying for the portion required by them and making compensation for any damage sustained by the owners thereof and other parties interested therein by severance or otherwise.

Owners may be required to sell part only of certain property.

36. And whereas in order to avoid in the execution and maintenance of any works authorised by this Act injury to the houses and buildings within one hundred feet of the tunnel it may be necessary to underpin or otherwise strengthen the same Therefore the Company at their own costs and charges may and if required by the owners and lessees of any such house or building shall subject as hereinafter provided underpin or otherwise strengthen the same and the following provisions shall have effect (that is to say):—

Company empowered or may be required to underpin or otherwise strengthen houses near tunnel.

- (1.) At least ten days' notice shall unless in case of emergency be given to the owners lessees and occupiers or by the owners and lessees of the house or building so intended or so required to be underpinned or otherwise strengthened :

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- (2.) Each such notice if given by the Company shall be served in manner prescribed by section 19 of the Lands Clauses Consolidation Act 1845 and if given by the owners and lessees of the premises to be underpinned or strengthened shall be sent to the principal office of the Company :
- (3.) If any owner lessee or occupier of any such house or building or the Company as the case may require shall within seven days after the giving of such notice give a counter notice in writing that he or they as the case may be disputes the necessity of such underpinning or strengthening the question of the necessity shall be referred to an engineer to be agreed upon or in case of difference to an engineer to be appointed at the instance of either party by the Board of Trade :
- (4.) 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 and if so required by such owner lessee or occupier shall prescribe the mode in which the same shall be executed and the Company may and shall proceed forthwith so to underpin or strengthen the said house or building :
- (5.) The cost of the reference shall be in the discretion of the referee :
- (6.) The Company shall be liable to compensate the owners lessees and occupiers 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 :
- (7.) If in any case in which any house or building shall have been underpinned or strengthened on the requisition of the Company such underpinning or strengthening shall prove inadequate for the support or protection of the house or building against further injury arising from the execution or use of the works of the Company then and in every such case unless such underpinning or strengthening shall have been done in pursuance of and in the mode prescribed by the referee the Company shall make compensation to the owners lessees and occupiers of such house or building for such injury provided the claim for compensation in respect thereof be made by such owners within twelve months and by such lessees or occupiers within six months from the discovery thereof :
- (8.) Nothing in this enactment contained nor any dealing with any property in pursuance of this enactment shall relieve the Company from the liability to compensate under the

68th section of the Lands Clauses Consolidation Act 1845 or A.D. 1892.
under any other Act :

(9.) Every case of compensation to be ascertained under this enactment shall be ascertained according to the provisions of the Lands Clauses Acts :

(10.) Nothing in this section shall repeal or affect the application of the 92nd section of the Lands Clauses Consolidation Act 1845.

37. Subject to the provisions of the Lands Clauses Consolidation Act 1845 with respect to the sale of superfluous lands the Company may from time to time sell lease exchange or otherwise dispose of in such manner for such consideration and on such terms and conditions as they think fit and in case of sale either in consideration of a gross sum or of an annual rent or of any payment in any other form any lands or any interest in any lands acquired by them under this Act and not required for the works and may make execute and do any deed act or thing proper for effectuating any such sale lease exchange or other disposition.

Power to
retain sell
&c. lands.

38. In the execution of the works by this Act authorised but subject to the provisions of this Act the Company may deviate laterally from the lines thereof shown on the deposited plans to any extent within the limits of deviation shown thereon and may deviate vertically from the levels thereof marked on the deposited sections to such an extent as may be found necessary or convenient in passing under the River Medina and for accommodating the carriage roads and approaches to the sewerage drainage or roads of the district Provided that no deviation either lateral or vertical below high-water mark shall be made without the consent in writing of the Board of Trade.

Powers of
deviation.

39. When the works or any part thereof are open for public traffic the Company may from time to time demand and take for persons animals carts carriages and other vehicles from time to time using the works or any part thereof any tolls not exceeding for each passage the tolls following (that is to say) :—

Power to
take tolls.

For every person on foot the sum of one halfpenny :

For any chariot berlin landau phaeton hearse chaise or other such like carriage with four wheels drawn by one horse or other beast sixpence :

If drawn by two horses or other beasts ninepence :

If drawn by three or four horses or other beasts one shilling :

For every horse or other beast drawing any cabriolet chaise chair gig or other carriage with less than four wheels sixpence :

For every extra horse or other beast threepence :

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For every horse or other beast drawing any large dray sledge or other carriage without wheels or drawing any large waggon stage waggon van caravan wain or dray or other such like carriage with four wheels one shilling :

For every horse or other beast drawing any small dray sledge or other carriage without wheels or drawing any small waggon stage waggon van caravan wain or dray or other such like carriage with four wheels sixpence :

For each extra horse fourpence :

For every carriage of any description whether drawn by one or more horse or horses or other beast or beasts such annual sum by way of composition for the foregoing tolls as may be agreed upon between the owner of such carriage and the Company :

For every horse mule or ass ridden or not ridden laden or unladen and not drawing the sum of threepence :

For every donkey cart or anything drawn by a mule or ass the sum of threepence :

For every ox bull steer or heifer or head of neat cattle fourpence :

For every calf the sum of twopence :

For every sheep lamb or pig the sum of one halfpenny :

For sheep lambs or pigs per score the sum of sixpence :

For every wheelbarrow or handbarrow the sum of one halfpenny :

For every handtruck or barrow with two wheels one penny :

For every handtruck with four wheels twopence :

For every merlin or bath chair or velocipede the sum of twopence :

For every bicycle or perambulator or such like the sum of one penny :

For every coach chaise gig or other carriage not drawn by any horse or other beast the sum of sixpence :

Weekly passenger ticket (each) Sundays excepted not transferable sixpence :

Weekly passenger ticket apprentices and children (each) Sundays excepted not transferable threepence :

Yearly tickets for one person twenty-one shillings :

Half-yearly tickets for one person ten shillings and sixpence.

Exemptions
from toll.

40. Provided always that no toll shall be demanded or taken—

(1.) For any person horse or carriage or other vehicle employed in conveying or guarding postal packets under the authority of Her Majesty's Postmaster-General either when employed in conveying fetching or guarding such postal packets or in returning from conveying or guarding the same The term

“postal packet” in this section has the same meaning as in the Post Office (Protection) Act 1884 :

- (2.) For any officer or soldier of Her Majesty's Regular Forces upon march or upon duty or any seaman under arms coast-guardsmen on duty and for all prisoners under military escort also for all carriages and horses belonging to or hired for or otherwise employed in conveying any such persons on duty or returning from conveying the same :
- (3.) For any animal or carriage attending soldiers with their arms and baggage or returning after having been so employed :
- (4.) For any cavalry or artillery horses or any guns or tumbrils or other artillery waggons or vehicles :
- (5.) For any waggon wain cart or other carriage or any animal drawing the same which is employed in conveying any arms or munitions of war or ordnance or commissariat or other public stores of or belonging to Her Majesty or to or for the use of Her Majesty's Forces or any materials or men for Government works :
- (6.) For any officer or man of Her Majesty's Auxiliary or Reserve Forces dressed in the uniforms of their respective corps upon their march or upon duty or in going to or returning from the place appointed for and on the days of exercise :
- (7.) For any horse furnished by or for or belonging to any officer of Her Majesty's Regular Auxiliary or Reserve Forces or to any corps of yeomanry or volunteer cavalry and ridden by such officer on duty or by a member of such corps dressed in the uniform of the corps in going to or returning from the place appointed for and on the days of exercise :
- (8.) For any officer of Inland Revenue in the proper exercise and execution of his duty :
- (9.) For all officers and persons employed in the service of the Customs or of the Board of Trade and being in the execution of their duty and also for all animals and vehicles used by any such officer or person for carrying or conveying goods under seizure by him and such officers and persons shall have the free use of the tunnel at all times :

Provided that the provisions of this section shall be in addition to and not in derogation of any exemption existing under the Army Act 1881 or any other Act relating to Her Majesty's Regular Reserve or Auxiliary Forces or existing by virtue of Her Majesty's prerogative

And if any person shall claim or take the benefit of any of the exemptions by this Act granted not being entitled to the same

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every such person for every such offence shall incur a penalty not exceeding forty shillings.

Power to provide toll-gates and toll-houses.

41. The Company may from time to time set up toll-gates at the entrances to the tunnel or the approaches thereto 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 and other conveniences near to the toll-gates as they think fit.

Tolls to be taken before passing.

42. The tolls granted by this Act shall be paid before any person animal carriage or vehicle of any description liable to toll is entitled to pass or repass through any toll-gate erected in pursuance of this Act.

Power to vary tolls.

43. The Company from time to time at any general meeting may reduce all or any of the tolls for such time as they think proper and again raise all or any of the tolls so that the tolls never exceed the amount limited by this Act.

Tolls to be charged equally.

44. The tolls shall at all times be charged equally and after the same respective rate upon all persons and in respect of all horses beasts cattle carts carriages and other vehicles and no reduction or advance of the tolls shall either directly or indirectly be made partially or in favour of any particular person but every such reduction or advance shall take effect with respect to all persons and to all horses beasts cattle carts carriages and other vehicles of the same respective sort.

Tolls to be taken by toll collectors.

45. The tolls may be demanded and taken from time to time by such persons as the Company and the lessees of the tolls respectively from time to time appoint to be toll collectors.

Table of tolls to be put up.

46. The Company shall from time to time put up and afterwards continue in full view at every toll-gate a table printed in distinct and legible black letters on a board and on a white ground containing a list distinguishing the several tolls to be from time to time taken or paid by virtue of this Act and shall renew the boards whenever any of the letters or figures thereon are worn out defaced or obliterated and the Company shall not demand or take at any toll gate any toll except while the board so painted remains affixed at or near the toll-gate.

Power to stop persons failing to pay tolls.

47. If any person subject under this Act to the payment of any toll after demand made thereof by any collector appointed to receive the same fails to pay the toll the collector by himself or taking such assistance as he thinks necessary may stop and prevent the passage of the person so failing.

48. If any person fraudulently or forcibly pass over or through the works or through any toll-gate without having paid the tolls or assault obstruct or interrupt any person employed in the collection of the tolls every person so offending shall for every such offence incur a penalty not exceeding forty shillings.

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Penalty for fraudulently passing through works.

49. Every toll collector shall place his christian name and surname painted on a board in legible characters in the front or some other conspicuous part of the toll-house or toll-gate immediately on his coming on duty each of the letters of the name or names to be at least two inches in length and of a breadth in proportion and painted in black letters on a board with a white ground and shall continue the same so placed in full view during the whole time he is upon duty.

Toll collector to place his name on toll-house.

50. If any toll collector commit any of the following offences:—

Penalty for offences by toll collector.

Firstly. Do not place such board and continue the same so placed as by this Act directed:

Secondly. Demand or take from any person a greater or less toll than he is for the time being authorised to demand or take:

Thirdly. Demand and take a toll from any person exempted from the payment thereof and claiming such exemption:

Fourthly. Refuse to permit any person to read or in anywise hinder any person from reading the inscriptions on the board or on the table of tolls put up at the toll-gate:

Fifthly. Refuse to tell his christian or surname to any person who having paid any toll demands the same:

Sixthly. In answer to any such demand give a false name:

Seventhly. On the legal toll being paid or tendered unnecessarily detain or wilfully hinder or prevent any passenger from passing through the toll-gate:

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

51. If any person take off any horse or other beast from any cart carriage or other vehicle at or near to the works or at or near to any toll-gate set up under this Act and afterwards put on any horse or beast after having passed the works or any such toll-gate with intent to evade and thereby evades or endeavours to evade the payment of any part of the tolls or forges counterfeits or alters or receives from or delivers to any other person any note or ticket with intent to evade the payment of any part of the tolls or if any person cause any such act to be done or aid or abet any person so acting every person so offending shall for every such offence incur a penalty not exceeding forty shillings.

Penalty for evading tolls.

A.D. 1892.

Penalty for
damaging
works and
other
offences.

52. If any person commit any of the following offences (that is to say):—

- (1.) Rides or drives or leads any horse beast cattle or any cart carriage or other vehicle over or upon the footpath of any carriage road of the Company :
- (2.) Wilfully obstructs the passage of persons or things over or through the works :
- (3.) Wilfully or carelessly breaks or damages any of the posts or stones erected for the security of any such footpath or scrapes off any mud soil or other thing from any part of the works so as to damage the same :
- (4.) Without reasonable cause to be allowed by the Court of Summary Jurisdiction which hears the complaint leaves any cart carriage barrow truck or other vehicle or any plough harrow or other implement of husbandry in or on any part of the works either with or without any horse beast or cattle harnessed or yoked thereto after having been ordered by the toll collector to remove the same :
- (5.) Places any timber wood or bushes or any stones bricks hay straw lime dung manure soil or rubbish whatsoever on any part of the works to the prejudice thereof or to the annoyance of any person travelling on or through the same :

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

Evidence of
appoint-
ment and
removal of
toll collec-
tor.

53. A certificate in writing under the hand of the secretary of the Company or as the case may be of the lessee of the tolls shall for all purposes be sufficient evidence of the appointment or removal of any toll collector.

Power to
obtain from
discharged
toll collec-
tor posses-
sion of toll
house &c.

54. If any toll collector when discharged or the wife widow or any of the children family or representatives of any toll collector who may have died or any other person having the possession of any toll-house or other building being the property of the Company fail for two days after demand by notice in writing signed by the secretary of the Company or by the lessee of the tolls and given to such toll collector or to any person occupying or residing in the toll-house or left at the toll-house building or premises to deliver up possession thereof any justice of the peace usually acting for the division in which the toll-house is situate may by warrant under his hand and seal order any constable or other peace officer with requisite assistance to enter into the toll-house building or premises in the day time and to remove all persons found therein with their goods out of the same and put the Company or lessee or any person named by them or him into possession thereof.

55. The Company may with the consent of the East and West Cowes Local Boards of Health or either of them from time to time make byelaws for all or any of the purposes following (that is to say):—

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Power to
make byelaws.

For regulating and limiting the passage way for foot passengers using the tunnel;

For regulating and limiting the speed at which persons riding on horseback or on bicycles or velocipedes or other contrivances of a like nature or driving any cart carriage or other vehicle shall proceed through the tunnel;

For regulating and limiting the line or route to be taken and kept by persons so riding or driving in passing to from in and through the tunnel;

For preventing any nuisance in and upon the tunnel and approaches; and

For preserving the tunnel and approaches from injury and damage:

The Company may with the like consent from time to time repeal alter amend or vary any such byelaw or make a new byelaw or new byelaws in lieu thereof or in addition thereto The Company may by any such byelaw impose penalties for offences against the same not exceeding in respect of any offence five pounds but every such byelaw shall be framed so as to allow of part only of the maximum penalty thereby imposed being inflicted:

Provided that no byelaws affecting the channel of the River Medina below high-water mark or the navigation of that river shall be of any effect unless confirmed by the Board of Trade:

Provided also that sections 182 183 184 and 186 of the Public Health Act 1875 shall apply to all byelaws made under the authority of this Act other than those requiring confirmation by the Board of Trade and for the purposes of those sections the Company shall be deemed to be a local authority.

56. The byelaws made under the provisions of this Act shall be painted on boards or printed on paper and pasted on boards and hung up or affixed in conspicuous places at or near to the entrances to the tunnel so as to give public notice thereof and such boards shall from time to time be renewed as often as the painting or printing thereon or any material part thereof shall be obliterated or destroyed and no penalty imposed by any byelaw shall be recoverable unless such byelaw shall have been published and kept published in manner aforesaid.

Byelaws
to be ex-
hibited.

A.D. 1892.

Byelaws to
be binding.

57. Such byelaws when so published shall be binding upon and be observed by all parties affected thereby and proof that a board containing a copy of such byelaws painted or printed thereon as above provided was hung up or affixed and renewed when necessary as by this Act directed shall be sufficient proof of the due publication of such byelaws.

Recovery
and applica-
tion of
penalties 11
& 12 Vict.
c. 43.

58. All offences under this Act and all penalties damages charges tolls and costs imposed or payable under this Act or under any byelaws made under the authority of this Act may be recovered under the provisions of the Summary Jurisdiction Acts.

Service of
notice by
Company.

59. Where it is necessary for the Company to serve any summons demand notice writ or other proceeding at law or in equity upon any person the same may be in writing or in print or partly in writing and partly in print and be signed by the secretary or clerk of the Company and need not be under the common seal of the Company.

Works
below high-
water mark
not to be
commenced
without
consent of
Board of
Trade.

60. The Company shall not construct on the shore of the sea or of any creek bay arm of the sea or navigable river communicating therewith where and so far up the same as the tide flows and reflows any work without the previous consent of the Board of Trade to be signified in writing under the hand of one of the secretaries or assistant secretaries of the Board of Trade and then only according to such plan and under such restrictions and regulations as the Board of Trade may approve of such approval being signified as last aforesaid and where any such work may have been constructed the Company shall not at any time alter or extend the same without obtaining previously to making any such alteration or extension the like consents or approvals. If any such work be commenced or completed contrary to the provisions of this Act the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the costs and charges of the Company and the amount of such costs and charges shall be a debt due from the Company to the Crown and shall be recoverable accordingly with costs.

Survey of
works by
Board of
Trade.

61. If at any time the Board of Trade deems it expedient for the purposes of this Act to order a survey and examination of a work constructed by the Company on in over through or across tidal lands or tidal water or of the intended site of any such work the Company shall defray the expense of the survey and examination and the amount thereof shall be a debt due from the Company to the Crown and be recoverable accordingly with costs or the same may be recovered with costs as a penalty is recoverable from the Company.

62. If a work constructed by the Company on in over through or across tidal lands or tidal water is abandoned or suffered to fall into decay the Board of Trade may abate and remove the work or any part of it and restore the site thereof to its former condition at the expense of the Company and the amount of such expense shall be a debt due from the Company to the Crown and be recoverable accordingly with costs or the same may be recovered with costs as a penalty is recoverable from the Company.

A.D. 1892.
 ———
 Abatement
 of work
 abandoned
 or decayed.

63. 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 in right of Her Crown and under the management of the Board of Trade without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give) neither shall anything in this Act contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exercisable by the Queen's Majesty Her heirs or successors.

Saving
 rights of
 the Crown
 in the fore-
 shore.

64. Nothing contained in this Act shall authorise the Company to take use or in any manner interfere with any land or hereditaments or any rights of whatsoever description belonging to or enjoyed or exercisable by the Queen's most Excellent Majesty in right of Her Crown and under the charge of the Commissioners of Her Majesty's Woods Forests and Land Revenues or either of them without the previous consent in writing of the same Commissioners or one of them on behalf of Her Majesty first had and obtained for that purpose which consent such Commissioners are hereby respectively authorised to give and as incidental to any such consent as aforesaid the Company may enter into any agreement with the Commissioners of Her Majesty's Woods Forests and Land Revenues or either of them who respectively may with the approval of the Commissioners of Her Majesty's Treasury join in every such agreement and the said Commissioners of Her Majesty's Woods Forests and Land Revenues with the like approval and the Company may respectively execute all necessary conveyances leases licenses or other deeds of or relating to any lands hereditaments or rights belonging to Her Majesty in right of Her Crown and every agreement so entered into as aforesaid shall be performed by the same Commissioners and the Company respectively and nothing in this Act contained shall divest take away prejudice diminish or alter any estate right privilege power or authority now or from time to time vested in or enjoyed or exercisable by the Queen's Majesty Her heirs or successors.

Saving
 rights of
 the Crown.

A. D. 1892.

For the
protection
of the West
Cowes Local
Board.

65. If the Company shall construct the retaining wall described in section 5 of this Act and shall reclaim any part of the land lying between the said retaining wall and the Medina Road in the town of West Cowes they shall dedicate to the West Cowes Local Board for the use of the public a right of way twenty feet in width from the said Medina Road to the water's edge over the land so reclaimed and over a bridge to be built and maintained by the Company across the approach road No. 1 as described in section 5 of this Act at the south-eastern side of the said land and shall at the north-eastern end of the said right of way construct convenient steps to the satisfaction of the said local board for the purpose of embarking upon and landing from the river. The West Cowes Local Board shall have the option of purchasing from the Company the said retaining wall and the residue of the land reclaimed and the Company shall not sell or dispose of it until they have made an offer in writing to sell it to the said local board at a price to be agreed upon between the said local board and the Company or failing agreement as shall be determined by arbitration and the local board shall have failed or declined for the space of one month from the service of such notice upon them to signify in writing to the Company their intention to purchase the same. In the event of the local board agreeing to purchase the said retaining wall and land the same shall be held by that board for the purposes of the Public Health Act 1875 and the purchase shall be deemed to be one of the purposes of that Act. If the Company remove the steps on the west side of the River Medina used in connection with the ferry across that river they shall construct other steps for the use of the public to the satisfaction of the said West Cowes Local Board.

Provisions
for the pro-
tection of
the South-
ampton Isle
of Wight
and South
of England
Royal Mail
Steam
Packet
Company
Limited.

66. For the protection of the Southampton Isle of Wight and South of England Royal Mail Steam Packet Company Limited (hereinafter in this section called "the Steam Packet Company") the following provisions shall have effect:—

- (A.) Before the commencement of the works by this Act authorised the Company shall purchase and the Steam Packet Company shall sell all their interest in the ferry or right of passage across the River Medina between East Cowes and West Cowes in the Isle of Wight in the county of Southampton and all other the premises demised by the Crown to the Steam Packet Company under a certain indenture of lease dated the eighth day of August 1881 and also the steam floating bridge works and conveniences now worked or used by the Steam Packet Company for or in connection with the said ferry and demised premises and the Company shall make to the Steam Packet Company full compensation for all loss damage or injury which they may

sustain by reason or in consequence of any of the works or operations of the Company :

- (B.) The purchase or consideration money to be paid by the Company to the Steam Packet Company shall include a sum for compulsory sale and for the prospective value of the said ferry and premises demised by the said lease :
- (C.) Before the commencement of the works by this Act authorised the Company shall purchase or provide for the payment in such office or manner as may be approved by the Steam Packet Company of an annuity of fifty pounds for John Lihon Roberton at Cowes during his life :
- (D.) If any difference shall arise in carrying into effect the provisions of this section the same shall be settled by arbitration in accordance with the provisions of the Lands Clauses Acts :
- (E.) Notwithstanding the purchase by the Company of the said ferry and premises demised by the said lease the Steam Packet Company may continue to work and use and nothing in this Act contained shall be deemed or construed to prevent interfere with or prejudicially affect the Steam Packet Company working or using steam or other vessels of any description for the conveyance of and conveying therein passengers animals merchandise and goods across the River Medina between the Steam Packet Company's present or future pontoons quays and landing places at East Cowes and West Cowes in the Isle of Wight in the county of Southampton :

Provided always that within three months from the completion of such purchase the Company shall produce to the Commissioners of Inland Revenue a deed of conveyance duly stamped with the full and proper ad valorem stamp duty in respect of the consideration for the said purchase and if the Company shall not within the said period of three months produce to the said Commissioners such deed duly stamped as aforesaid the ad valorem stamp duty with interest thereon at the rate of five pounds per centum per annum from the date of sale to the date of payment shall be recoverable from the Company with full costs of suit and all costs and charges attending the same.

67. The Company shall not stop or interfere with and when they shall have acquired the interests of the parties or company working the same shall maintain the efficient working of the ferry between East and West Cowes and shall not stop up the approaches thereto before the tunnel is completed and opened for traffic and the Company shall at all times make proper provision for the efficient working of the ferry by steam or other boats if and whenever and

For main-
tenance &c.
of the ferry
between
East and
West
Cowes.

A.D. 1892.

so often as from any cause whatever the tunnel shall be closed or cease to be used either temporarily or permanently.

Confirming
agreement
with
Messrs.
Hansen.

68. The agreement made between William John Atkinson Baldwin and Sidengham Unwin Duer of the one part and George Edward Hansen Charles Cleaver Hansen Henry Samuel Hansen and Frederick James Hansen of the other part a copy of which is set forth in the schedule to this Act is hereby confirmed and made binding according to the terms and conditions thereof upon the parties thereto and full effect shall be given thereto as if the Company were parties instead of the parties thereto of the first part and as if the same was under the seal of the Company Provided always that any purchase which may be carried out in pursuance of the said scheduled agreement shall be evidenced by a deed of conveyance duly stamped and this deed shall within three months from the date of purchase be produced to the Commissioners of Inland Revenue and in default of such production the ad valorem stamp duty shall be recoverable from the Company in like manner and with the same interest as is set forth in section 66 of this Act.

Costs of
Act.

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

The SCHEDULE hereinbefore referred to.

A.D. 1892.

AGREEMENT made between WILLIAM JOHN ATKINSON BALDWIN of Dalton in Furness in the county of Lancaster and L2 The Albany Piccadilly in the county of Middlesex retired Colonel in Her Majesty's Army Justice of the Peace and D.L. and SIDENGHAM UNWIN DUER of No. 22 Harewood Square in the county of Middlesex Gentleman on behalf of the parties promoting a Bill in the present Session of Parliament entitled "The Medina (Isle of Wight) Tunnel Bill" such parties being hereinafter referred to as "the Promoters" of the one part and GEORGE EDWARD HANSEN CHARLES CLEAVER HANSEN HENRY SAMUEL HANSEN and FREDERICK JAMES HANSEN all of Cowes in the Isle of Wight yacht builders and co-partners and hereinafter referred to as "Messieurs Hansen" of the other part.

WHEREAS the promoters are promoting a Bill in the present session of Parliament of which the short title is "Medina (Isle of Wight) Tunnel" and by the Bill power is sought to enable the Company proposed to be thereby incorporated to construct and maintain a tunnel under the River Medina with approaches thereto to connect East and West Cowes and for that purpose to take portions of the lands and shipbuilding yards belonging to the said Messieurs Hansen And whereas the promoters are desirous of obtaining the assent of the said Messieurs Hansen to the said Bill and with a view thereto the promoters have agreed to enter into the arrangement hereinafter set forth.

Now these presents witness :—

1. Notwithstanding anything in the Bill contained the Company to be incorporated thereby shall not acquire without the consent of the said Messieurs Hansen any lands or premises situate in the parish of Whippingham in the Isle of Wight belonging to the said Messieurs Hansen or any or either of them except such land and premises as are coloured red upon the plan hereunto annexed and signed by the parties as relative thereto.

2. The Company shall purchase from the said Messieurs Hansen the land and premises of the said Messieurs Hansen coloured red on the said plan hereunto annexed.

3. The compensation to be paid by the Company to the said Messieurs Hansen for the land so to be purchased shall in default of agreement be settled by arbitration pursuant to the provisions of the Lands Clauses Consolidation Act 1845 and in ascertaining such compensation there shall be added such a sum as shall in the opinion of the tribunal adequately represent their loss and inconvenience (if any) which will be caused to the said Messieurs Hansen by the transfer to other premises of the workshops and works which are now carried on by them on the land coloured red on the plan hereunto annexed and which form a portion of their general shipbuilding business and also such a sum as shall represent the diminution of value (if any) which will

A.D. 1892.

be caused to their houses called Falcon Terrace indicated on the said plan and coloured blue thereon by reason of the construction of the works proposed to be authorised by the Bill.

4. In estimating the compensation to be paid by the said Company no claim or compensation shall be made or allowed in respect of workshops and machinery now upon the said land and premises coloured red on the plan hereunto annexed which shall be removed by the said Messieurs Hansen but the Company shall pay to the said Messieurs Hansen such a reasonable sum as shall represent the cost of the removal of the said workshops and machinery and of erecting the same upon such other premises as the said Messieurs Hansen may take and reinstating them in a similar condition as the same are now in.

5. No business or operation shall be carried on nor any building or erection be erected on the said land and premises coloured red on the said plan hereunto annexed which can cause any nuisance or annoyance to the occupiers of the adjoining property Except always that no operation or act which is reasonably required to be carried on or done in the construction or working of the said tunnel and approaches shall be considered as a nuisance or annoyance to any of the adjoining owners within the meaning of this clause.

6. And whereas the houses called Falcon Terrace are at present approached by a road running through the land and premises coloured red upon the said plan hereunto annexed and thereon marked private road leading to Falcon Terrace And whereas a considerable portion of the said land coloured red will be so severed from the remainder by the tunnel works that it will be absolutely cut off from any public thoroughfare Now it is hereby agreed that before the Company shall in any manner stop up or otherwise interfere with the said private road they shall construct a roadway and pathway together of the width of eighteen feet to the satisfaction of the surveyor of the said Messieurs Hansen to form an access from Park Street to the said Falcon Terrace and the said land coloured red in the situation shown on the said plan hereunto annexed and thereon coloured green Immediately upon the completion of the said road and pathway to the satisfaction of the surveyor of the said Messieurs Hansen the Company shall legally and validly grant to the said Messieurs Hansen their heirs assigns and tenants from time to time and the said Messieurs Hansen shall legally and validly grant to the Company its successors assigns and tenants from time to time perpetual rights of way over and user of the portions of such road and pathway which belong or will belong respectively to the Company and the said Messieurs Hansen for foot passengers carts carriages and all other traffic going to and coming from the said Falcon Terrace and the several portions of the said land coloured red.

7. The promoters shall use their best endeavours to procure this agreement to be confirmed by Parliament in the Bill now being promoted by them as before mentioned Upon the said Bill receiving the Royal Assent any personal liability which this agreement or any clause herein would otherwise throw upon the promoters or any of them shall wholly cease and determine.

8. Provided always that this agreement is made subject to such alterations as Parliament may think fit to make herein but if the committee on the Bill

make any material alteration herein it shall be competent to any party hereto to withdraw the same. A.D. 1892.

As witness the hands of the parties the twentieth day of February one thousand eight hundred and ninety-two.

Signed by the said George Edward
Hansen Charles Cleaver Hansen
Henry Samuel Hansen and
Frederick James Hansen in the
presence of

G. E. HANSEN.
C. C. HANSEN.
H. S. HANSEN.
F. J. HANSEN.

H. PERCY BECHER

Solicitor

26 Bedford Row W.C.

Signed by the said William John
Atkinson Baldwin and Sidengham
Unwin Duer in the presence of

W. J. A. BALDWIN.
SIDENGHAM UNWIN DUER.

H. PERCY BECHER

Solicitor

26 Bedford Row W.C.

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