# CHAPTER clxvi.

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An Act for making a tunnel under the River Clyde at Glasgow; and for other purposes. [12th August 1889.]

WHEREAS the making of a new means of communication across the River Clyde at Glasgow by means of a tunnel under the river would be of public and local advantage and the persons herein-after named with others are willing at their own expense to construct the same and it is expedient that they should be incorporated into a company for the purpose of carrying the undertaking into execution:

And whereas a plan and section showing the line and levels of the tunnel authorised by this Act and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the principal sheriff clerk of the county of Lanark at his office in Glasgow and are herein-after respectively referred to as the deposited plan section and book of reference:

And whereas the purposes of this Act 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 Glasgow Harbour Tunnel Act 1889.

Incorporation of Companies and Lands Clauses Acts.

**2.** The Companies Clauses Consolidation (Scotland) 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 Railway Companies (Scotland) Act 1867 and the Companies Clauses Act 1869 the Lands Clauses Consolidation (Scotland) Act 1845 and the Lands Clauses Consolidation Acts

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Amendment Act 1860 are except where expressly varied by or inconsistent with this Act incorporated with and form part of this Act.

Incorporation of certain provisions of Railways Clauses (Scotland) Act 1845.

**3.** The following clauses and provisions of the Railways Clauses Consolidation (Scotland) Act 1845 are except where expressly varied by or inconsistent with this Act incorporated with and form part of this Act (that is to say) The clauses and provisions with respect to the following matters (namely) :—

The construction of the said Act and other Acts to be incorporated therewith ;

The construction of the railway and the works connected therewith ;

The temporary occupation of lands near the railway during the construction thereof ;

The crossing of roads or other interference therewith excepting sections 39 to 45 inclusive and 52 to 57 inclusive ;

Mines lying under or near the railway ;

The carrying of passengers and goods upon the railway and the tolls to be taken thereon excepting sections 79 to 82 inclusive 84 85 87 88 96 and 97 ;

The regulations of the use of the railway ;

The settlement of disputes by arbitration ;

The recovery of damages not specially provided for and the determination of any other matter referred to the sheriff or to justices ; and

The provision to be made for affording access to the special Act by all parties interested :

And in construing the said clauses and provisions as incorporated with this Act the expression "the railway" means the tunnel by this Act authorised to be made.

Interpretation.

**4.** 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" and "the undertaking" mean respectively the tunnel and the undertaking by this Act authorised.

Company incorporated.

**5.** John Black William Laird George Lindsay William Murray Alexander Simpson James Parker Smith James Hay Squair Robert Struthers William Weir 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 Glasgow Harbour 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 tunnel.

**6.** 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 plan and section the tunnel herein-after described with all proper approaches ways communications works and conveniences connected therewith and may enter upon take and use such of the lands delineated on the deposited plan and described in the deposited book of reference as may be required for that purpose The tunnel herein-before referred to and authorised by this Act is:—

A tunnel 1 furlong and 3·56 chains or thereabouts in length to be formed under the River Clyde and to consist of two passages ways or tunnels for carriages carts and other vehicles and a separate passage way or tunnel for foot passengers commencing in the parish of Govan at a point twenty-five yards or thereabouts westward from the west side of the road leading from Govan Road opposite Plantation Street to Stobcross (otherwise known as Finnieston) Ferry and forty yards or thereabouts northward from the south-west corner of the said road leading as aforesaid at its junction with Govan Road and terminating in the barony parish of Glasgow at a point thirty yards or thereabouts northward from the north side of the street called Finnieston Quay and one hundred and forty yards or thereabouts north-westward from the south-west corner of Finnieston Street at its junction with the said street called Finnieston Quay.

Incidental works.

**7.** The Company may also subject to the provisions of this Act construct and maintain such shafts or openings from the surface of any land road street lane court or square to the tunnel as may be necessary or convenient as means of ingress or egress thereto or therefrom together with all necessary staircases and lifts by which the tunnel shall be approached and all necessary engines machinery buildings communications works and conveniences in connexion with the tunnel and other works aforesaid or any of them or incidental thereto.

Certain properties to be taken by agreement only.

**8.** The Company shall not take or interfere with any of the properties numbered on the deposited plans 5 to 17 inclusive in the

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barony parish without the consent in writing of the owners lessees and occupiers thereof respectively.

Capital.

**9.** The capital of the Company shall be one hundred and thirty-five thousand pounds in thirteen thousand five hundred 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 least shall be the interval between successive calls and three fifths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Receipt in case of persons not sui juris.

**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 or of his tutor or curator or curator bonis shall be a sufficient discharge to the Company.

Power to divide shares.

**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.

Dividends on half 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 pounds 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.

Dividends on preferred half shares to be paid out of the profits of the year only.

**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 or if the half-yearly accounts of the Company shall be brought down to the thirty-first day of January and the thirty-first day of July then if in any year ending the thirty-first day of January 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.

Registration of half shares 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 in 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 half shares.

**18.** The provisions of the Companies Clauses Consolidation (Scotland) 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 forfeiture thereof and of the arrears of calls for the time being due thereon with interest.

Preferred half shares not to be cancelled or surrendered.

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

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Rights of holders of half-shares.

**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 herein-before contained) shall confer and have all such other rights qualifications 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 forty-five thousand pounds but no part thereof shall be borrowed until the whole capital of one hundred and thirty-five thousand pounds is issued and accepted and one half thereof is paid up and the Company have proved to the sheriff who is to certify under the forty-second section of the Companies Clauses Consolidation (Scotland) 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 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 sheriff 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.

For appointment of a judicial factor.

**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 judicial factor In order to authorise the appointment of a judicial factor in respect of arrears of principal the amount owing to the mortgagees by whom the application for a judicial factor is made shall not be less than four thousand five hundred pounds in the whole.

Debenture stock.

**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.

Application of moneys.

**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.

First and subsequent ordinary meetings.

**25.** The first ordinary meeting of the Company shall be held within six months after the passing of this Act and the subsequent ordinary meetings of the Company shall be held twice in every year in the months of March or April and September or October and all meetings of the Company whether ordinary or extraordinary shall be held in Glasgow or in such other place as the directors may from time to time appoint.

Quorum of meetings.

**26.** The quorum of every general meeting of the Company shall be eight shareholders present personally or by proxy holding in the aggregate not less than two thousand pounds in the capital of the Company.

Number of directors.

**27.** The number of directors shall be four but the Company may from time to time increase and reduce the number provided that the number be not more than five or less than three.

Qualification of directors.

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

Quorum of directors.

**29.** The quorum of a meeting of directors shall be three.

First directors.

**30.** John Black William Laird James Parker Smith and William Weir 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 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 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 (subject to the powers hereinbefore contained for reducing the number of directors) elect persons to supply the places of the directors then retiring from office agreeably to the provisions of the Companies Clauses Consolidation (Scotland) 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.

Domicile of the Company.

**31.** The domicile of the Company with reference to all judicial proceedings or actions at law shall be held to be in Glasgow.

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Land for extraordinary purposes.

**32.** The Company may take by agreement for the extraordinary purposes mentioned in the Railways Clauses Consolidation (Scotland) Act 1845 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 caused by them upon any land taken under the powers of this section.

Period for compulsory purchase of lands.

**33.** 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.

Power to deviate from line delineated on plan.

**34.** Subject to the provisions of this Act the Company may in the construction of the tunnel deviate laterally from the line thereof delineated on the deposited plan to any extent within the limits of deviation marked thereon not exceeding thirty yards on either side of such line anything in the Railways Clauses Consolidation (Scotland) Act 1845 to the contrary notwithstanding.

Power to deviate from levels on section.

**35.** The Company may in the construction of the tunnel deviate from the levels and gradients thereof shown on the deposited section to such extent as may be found necessary or convenient Provided that no deviation upwards shall extend so that the outside of the top of the arches of the tunnel shall in passing under the River Clyde be higher than is shown on the deposited section without the consent in writing of the trustees of the Clyde Navigation or at any point be nearer the surface of any road or street than five feet.

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

**36.** The Company shall not construct in the River Clyde below high-water mark any temporary or other 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 cost and charge 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.

Interference with streets.

**37.** Subject to the provisions of this Act the Company may in the construction of the tunnel temporarily stop up divert or otherwise interfere with any streets roads courts footways and paths shown on

the deposited plan and described in the deposited book of reference and may during such construction use and appropriate any of the streets roads courts footways and paths so stopped up diverted or otherwise interfered with Provided that the Company before interfering with any such street road court footway or path or interrupting the traffic therein shall provide a proper temporary substitute for the portion thereof to be so interfered with Provided further that nothing in this Act shall enable the Company to remove alter or in any way interfere with the telegraphs of the Postmaster-General except in accordance with and subject to the provisions of the Telegraph Act 1878.

Providing for ventilation of tunnel.

**38.** Subject to the provisions of this Act and upon lands belonging to the Company or which they may have obtained right to use for that purpose the Company may make and shall for ever after maintain all requisite shafts or openings for the purpose of ventilating the tunnel and may for the purposes of such shafts or openings or for other purposes in the construction of the tunnel alter or divert all sewers drains pipes and other works and also subject to the provisions of the Telegraph Act 1878 any telegraph wires and works connected therewith which may impede the construction and use of the tunnel or of the said shafts or openings and the Company may apply any moneys from time to time belonging to them for the construction and maintenance of the said shafts or openings Provided that nothing in this or the preceding section shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electric Lighting Act 1882 to which the provisions of section 15 of the said Act apply.

Provision against driving piles &c. during certain hours.

**39.** The Company in constructing the tunnel shall not between the hours of ten o'clock in the afternoon and six o'clock in the forenoon of the following day drive piles or carry on any other operations involving noise or disturbance within a distance of one hundred yards of any dwelling-house unless with the consent in writing of the corporation or local authority as the case may be first had and obtained but in case of emergency such consent shall not be necessary provided the Company give intimation to the corporation or local authority as the case may be with the least possible delay that they have so acted and such night work shall only be allowed to continue so long as necessity for it may exist.

Roads and streets to be kept open for foot passengers.

**40.** The Company shall not at any time in constructing the tunnel or in executing any works in connexion therewith stop up or close any road or street against the passage of foot traffic.

Limiting period for restoration of

**41.** Whenever the Company shall in virtue of the powers contained in this Act stop up or close against vehicular traffic any road

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roads and streets.

or street then the period from the time of their beginning so to close or stop up the said road or street to the time of their completing the restoration of the same and reopening it for vehicular traffic shall not exceed three months and they shall be liable in a penalty payable to the corporation or local authority as the case may be of not less than three and not exceeding five pounds for every day after the expiry of the said period of three months that the said road or street shall remain unrestored and not reopened for traffic.

Company may acquire easements only under streets or roads and may purchase cellars &c.

**42.** With respect to any lands which the Company are by this Act authorised to enter upon take and use for the purposes of the tunnel and which are in or under the roadway or footway of any public street road or lane shown on the deposited plan and described in the deposited book of reference the Company shall not be required wholly to take the same or any part of the surface thereof or any cellar vault or other construction therein or thereunder but the Company may appropriate and use without price or consideration the subsoil and under-surface of the roadway or footway of any such street road or lane and if need be they may purchase take and use and the owners of and other persons interested in any such cellar vault or other construction shall sell the same for the purposes of the tunnel and no such subsoil or under-surface cellar vault or other construction to be appropriated and used or purchased as aforesaid shall be deemed part of a house or other building or manufactory within the meaning of section 90 of the Lands Clauses Consolidation (Scotland) Act 1845.

Power to take easements &c. by agreement.

**43.** Persons empowered by the Lands Clauses Consolidation (Scotland) Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the Company any easement servitude 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 or feu duties so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements servitudes rights and privileges as aforesaid respectively.

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

**44.** And whereas in order to avoid in the execution and maintenance of any works authorised by this Act injury to the houses cellars 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 cellar or building shall subject as herein-after provided underpin or other-

wise strengthen the same and the following provisions shall have effect (that is to say):—

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

(2.) Each such notice if given by the Company shall be served in manner prescribed by section 18 of the Lands Clauses Consolidation (Scotland) 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 cellar 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 cellar 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 cellar 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 cellar 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 cellar 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 cellar 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 cellar or building for such injury

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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 compensation under the Lands Clauses Consolidation (Scotland) Act 1845 or under any other Act;

(9.) Every case of compensation to be ascertained under this enactment shall be ascertained according to the provisions contained in the Lands Clauses Consolidation (Scotland) Act 1845;

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

For protection of the Postmaster-General.

**45.** In the event of the tunnel being lighted or the lifts to be employed by the Company in conveying passengers animals and things to and from the tunnel being worked by electricity the following provisions shall have effect:—

(1.) It shall not be lawful for the Company to do any act or work for lighting the tunnel or working the lifts by electricity whereby any telegraphic line of the Postmaster-General is or may be injuriously affected and before any such act or work is done within ten yards of any part of a telegraphic line of the Postmaster-General (other than repairs or the laying of lines crossing the line of the Postmaster-General at right angles at the point of shortest distance and so continuing for a distance of six feet on each side of such point) the Company or their agents not more than twenty-eight nor less than fourteen days before commencing such work shall give written notice to the Postmaster-General specifying the course of the line and the nature of the work including the gauge of any wire and the Company and their agents shall conform with such reasonable requirements (either general or special) as may from time to time be made by the Postmaster-General for the purpose of preventing any telegraphic line of the Postmaster-General from being injuriously affected by the said act or work;

(2.) Any difference which arises between the Postmaster-General and the Company or their agents with respect to any requirements so made shall be determined by arbitration in manner provided by section 28 of the Electric Lighting Act 1882;

(3.) In the event of any contravention of or wilful non-compliance with this section by the Company or their agents the Company shall be liable to a fine not exceeding ten pounds for every day

during which such contravention or non-compliance continues or if the telegraphic communication is wilfully interrupted not exceeding fifty pounds for every day on which such interruption continues;

(4.) Provided that nothing in this section shall subject the Company or their agents to a fine under this section if they satisfy the court having cognizance of the case that the immediate doing of the act or execution of the work was required to avoid an accident or otherwise was a work of emergency and that they forthwith served on the postmaster or sub-postmaster of the postal telegraph office nearest to the place where the act or work was done a notice of the execution thereof stating the reason for doing or executing the same without previous notice;

(5.) For the purposes of this section a telegraphic line of the Postmaster-General shall be deemed to be injuriously affected by an act or work if telegraphic communication by means of such line is whether through induction or otherwise in any manner affected by such act or work or by any use made of such work;

(6.) For the purposes of this section and subject as therein provided sections 2 8 9 10 11 and 12 of the Telegraph Act 1878 shall be deemed to be incorporated with this Act as if the Company were undertakers within the meaning of those sections without prejudice nevertheless to any operation which the other sections of the said Act would have had if this section had not been enacted.

**For protection of the Clyde Navigation Trustees.**

**46.** For the protection of the trustees of the Clyde Navigation (in this Act called "the Clyde Trustees") the following provisions shall apply and receive effect viz.:—

(1.) The Company shall construct the tunnel under the River Clyde and all other works both temporary and permanent necessary and incidental to the construction thereof or affecting the property or works of the Clyde Trustees in accordance with the provisions of this Act and according to such plans sections and specifications and of such quality and strength of materials and in every other respect in such manner as shall be previously submitted to and approved in writing by the engineer of the Clyde Trustees for the time being The Company shall not commence the construction of any part of the tunnel or works under the River Clyde or the quays or wharves connected therewith until such plans sections and specifications have been so submitted and approved Provided always that if the said engineer shall for the period of one month neglect or refuse to

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approve such plans sections or specifications or shall disapprove the same then the tunnel or works shall be constructed according to plans sections and specifications to be submitted to and approved (subject however to the special provisions of this section) by an engineer to be agreed upon by the Company and the Clyde Trustees or in default of agreement to be appointed at the request of either the Company or the Clyde Trustees by the sheriff of the county of Lanark;

(2.) All the works and operations of the Company shall be carried on so as in no way to obstruct impede or interfere with the free and uninterrupted and safe use of the navigation of the Clyde Trustees or with the traffic thereon and of the quays and wharves connected therewith and if any such obstruction or interference shall be caused or take place the Company shall pay to the Clyde Trustees full compensation in respect thereof to be recovered with full costs in any court of competent jurisdiction;

(3.) The Company shall pay to the Clyde Trustees the costs and expenses they may reasonably incur or be put to in superintending the works authorised by this Act or with reference to any of the matters aforesaid;

(4.) All the said works of the Company shall be executed in a substantial and workmanlike manner and shall be maintained in a good and substantial condition and if any loss or damage should be sustained by the Clyde Trustees by reason of the failure of any of the works or of the use thereof by the Company the Company shall pay to the Clyde Trustees full compensation in respect thereof to be recovered as aforesaid;

(5.) The Company shall not (except with the previous consent of the Clyde Trustees under their common seal) acquire any absolute property in any quays or wharves of the Clyde Trustees but only the right privilege or servitude of making maintaining and using the tunnel within the limits of deviation and in accordance with the provisions of this Act;

(6.) All the aforesaid works of the Company shall be executed and thereafter maintained by and in all things at the expense of the Company;

(7.) If any difference shall arise between the Company and the Clyde Trustees or their respective engineers as to anything to be done or not to be done under the provisions of this section the same shall be referred to and determined by an engineer to be agreed upon between the parties or if they cannot agree to be appointed on the application of either of the parties in difference by the sheriff of the county of Lanark and the award

of the engineer so appointed shall be final and binding on both parties and the costs of the arbitration shall be in the discretion of the arbitrator.

For protection of water and gas undertakings.

**47.** Whereas the mains and pipes of the commissioners acting under the Glasgow Corporation Waterworks Act 1855 (in this section called "the water commissioners") and the mains and pipes of the Lord Provost magistrates and council of the city of Glasgow acting under the Glasgow Corporation Gas Act 1869 (in this section called "the corporation") are laid along and across certain roads or streets in which the tunnel by this Act authorised will be constructed and it may be necessary for the purposes of this Act to interfere with the said mains and pipes And whereas the inhabitants of the city of Glasgow and adjoining police burghs and places are supplied with water by the water commissioners by means of certain of the said mains and pipes and with gas by the corporation by means of other of the said mains and pipes And whereas it is expedient that provision be made for protecting the said mains and pipes during the construction of the works by this Act authorised and for preventing any interruption of the supply of water by the water commissioners and of the supply of gas by the corporation to the said inhabitants Therefore the following provisions in that behalf shall be binding on the Company and have full effect (that is to say) :—

(A.) At least fourteen days before the Company commence any works the execution of which would in any way interfere with or affect any of the said mains or pipes they shall give to the water commissioners or to the corporation as the case may be notice thereof in writing accompanied by plans and sections working drawings and specifications showing the manner in which the proposed tunnel or works are to be executed at the points where the same are to be constructed underneath or near to the said mains or pipes which shall include all beams girders troughs culverts and masonry which may be necessary for conveying supporting and protecting the existing mains or pipes of the water commissioners or of the corporation and any additional mains or pipes which may have been laid by the water commissioners or by the corporation under the powers of their existing Acts together with all scour pipes air valves and stop valves which may be rendered necessary by the operations of the Company and also the means where any are required of supporting diverting or protecting the mains or pipes during the operations of the Company which plans and sections shall be approved of by the engineers of the commissioners and of the corporation respectively previously to the works of the

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Company affecting such mains or pipes being commenced or in the event of any difference of opinion between the said engineers and the engineer of the Company such difference shall be settled by the arbitrator to be appointed in the manner provided in section 48 of this Act and subject to the provisions as to costs therein contained;

(B.) Before any of the mains or pipes are in any way interfered with to the effect of interrupting the supply of water or gas through the then existing mains or pipes there shall be laid down mains or pipes of dimensions not less than the mains or pipes which are to be so interfered with and having junctions at each end thereof with the then existing mains or pipes so as to provide for the uninterrupted supply of water or gas for all purposes during the execution of the works as fully and freely as if the then existing mains and pipes were not interfered with;

(C.) When the mains and pipes so interfered with are replaced and the roadways over the same made good any temporary mains or pipes which may have been inserted shall be disconnected from the then existing mains or pipes and when the full and free flow of water or gas for all purposes through the mains or pipes so replaced shall be restored such temporary mains and pipes may be removed;

(D.) The works approved of by the engineers of the water commissioners and of the corporation or such arbitrator so far as necessary for conveying supporting diverting or protecting any of the works or water supply of the water commissioners or of the works or gas supply of the corporation shall be executed by the water commissioners or the corporation as the case may be or by such persons as they respectively shall think fit and under the sole direction of their engineers respectively and during the progress of those works the said engineers may if they think fit execute any incidental works which they deem requisite for the protection of the water commissioners or the corporation in accordance with this section;

(E.) If the water commissioners or the corporation for ten days next after the day named in the notice served by the Company for the commencement of the works interfering with or affecting the said mains or pipes or any of them or for ten days after such later day as the Company by notice in writing to the water commissioners or to the corporation may have named for commencing the works fail to commence or at any time thereafter fail to proceed with reasonable despatch in the execution of the works the Company at their own expense may remove alter or

otherwise interfere with the said mains or pipes or any of them in such manner and to such extent as they deem necessary and may execute all such other works as they deem requisite for preventing any interruption to the supply of water by the water commissioners or to the supply of gas by the corporation;

(F.) The Company shall pay to the water commissioners and to the corporation respectively the amount of all reasonable costs charges and expenses incurred by the water commissioners or by the corporation in or about or in any way relating to the works so executed by them including a reasonable sum as remuneration to their respective engineers for their services in that behalf but under deduction of the value of the pipes connexions and valves superseded by the said works and the Company shall indemnify the water commissioners and the corporation and save them harmless from and against the consequences of any damage or injury done by the leakage or bursting or injuring of the said mains or pipes or any of them occasioned by the construction of the tunnel or otherwise by the works of the Company;

(G.) The water commissioners or the corporation shall not be liable for any damage or injury done to the works of the Company or to any of the roads or streets underneath which the tunnel is to be formed or otherwise howsoever by reason of any of the works executed under this section or consequent on the execution thereof excepting where such damage or injury shall have been occasioned by the default or neglect of the water commissioners or of the corporation or of their respective agents officers workmen or servants and the Company shall indemnify the water commissioners and the corporation and save them harmless from and against the consequences of all such damage or injury excepting as aforesaid;

(H.) If at any time any accident shall occur to the mains and pipes belonging to the water commissioners or to the corporation at or near any of the points where the same are interfered with by the Company and in respect of which accident it may be necessary to interfere with any of the works of the Company it shall be lawful for the water commissioners or the corporation immediately to repair the said mains or pipes in such manner as to occasion as little delay and inconvenience as may be to the traffic of the tunnel Provided always that the water commissioners or the corporation either before or as soon as practicable after the commencement of such repair give notice thereof to the Company Provided also that it shall be lawful for the Company on the occurrence of any such accident

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to repair any damage that may be thereby caused to the tunnel so far as the same can be repaired without interrupting the repair of the said mains or pipes;

(I.) The water commissioners or the corporation shall not be liable for any loss or damage which may happen to the tunnel or works connected therewith or to the vehicles passengers or goods passing through the same by reason of any accident which may at any time happen to the said mains or pipes at or near any of the points where the tunnel is to be constructed underneath the same nor for any loss or damage to the Company arising from the stoppage or loss of traffic in the tunnel during the repair of the said mains or pipes which may be necessary in consequence of such accident excepting where such loss or damage shall have been occasioned by the default or neglect of the water commissioners or the corporation or of their agents officers workmen or servants but the Company shall indemnify and save them harmless from and against the consequences of such damage stoppage or loss excepting as aforesaid;

(J.) Nothing in this Act shall prevent the water commissioners or the corporation from laying from time to time as they think proper any additional pipes which may not interfere with the permanent use of the tunnel for the purposes of the said water or gas supply within the area of the said streets and roads underneath which the tunnel is to be constructed and the water commissioners or the corporation shall not be liable for any loss or damage which may happen to the tunnel or for any stoppage of the tunnel or loss of traffic thereon that may be caused by the laying of such additional pipes but the Company shall indemnify them and save them harmless from and against the consequences of such damage stoppage or loss Provided always that the water commissioners or the corporation shall give to the Company twenty-one days notice in writing accompanied by plans sections and specifications showing the manner in which such additional pipes are proposed to be laid before commencing the laying of such additional pipes and shall complete the same with all reasonable despatch Provided also that the Company shall be entitled to execute such works as they may think necessary to secure the tunnel from injury and prevent interruption to the traffic thereon during the laying of such additional pipes but so that such works shall not interrupt the laying of those pipes Provided further that the works necessary for laying such additional pipes by the water commissioners or the corporation and the works necessary

to secure the tunnel and the traffic thereon from damage or interruption as aforesaid shall be made and completed according to a plan to be approved of previously to the commencement of any such works by the engineers for the time being of the water commissioners or the corporation and of the Company respectively or in case of difference between them then according to a plan to be so approved of by the arbitrator to be appointed in the manner provided in section 48 of this Act and under the provisions thereof as aforesaid;

(K.) Should it be necessary for the Company to interfere with or alter any road or street in which any main or pipe of the water commissioners or of the corporation is or may be laid or to interfere with any of the said mains or pipes the Company shall be bound to leave not less than three feet of covering from the surface of the road over every main or pipe so altered or interfered with or to provide special protection for the said mains or pipes to the reasonable satisfaction of the engineers of the water commissioners or the corporation;

(L.) The special provisions herein contained for the protection of the water commissioners and the corporation shall not be deemed to supersede or dispense with the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 sections 18 to 23 both inclusive but those provisions respectively except in so far as they may be inconsistent with any of the special provisions herein contained shall be and remain in full force and effect.

For protection of the corporation of Glasgow and the police commissioners of Govan.

**48.** For the protection of the Lord Provost magistrates and council of the city of Glasgow as a municipal corporation and as trustees or commissioners acting in execution of the several public and local and personal Acts by which any powers jurisdiction or authorities are conferred on them (in this section called "the corporation") and of the commissioners of police of the burgh of Govan (in this section called "the local authority") the following provisions shall have effect and be binding on the Company (that is to say):—

(A.) At least fourteen days before the Company commence any works the execution of which would in any way interfere with or affect any of the roads or streets in the city and royal burgh of Glasgow or in the burgh of Govan or which would interfere with or affect the sewers or drains belonging to the corporation or the local authority or which they have the right of using the Company shall give to the corporation and the local authority as the case may be notice thereof in writing accompanied by the necessary plans sections working drawings and specifications

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showing the manner in which the tunnel and works connected therewith in the roads or streets within the said city and royal burgh and burgh respectively are to be executed and also the means to be employed for protecting the said roads streets lanes footpaths sewers and drains during the operations of the Company and also the means to be employed for making good any injury or damage to or interference with the said roads streets lanes footpaths sewers and drains which plans sections working drawings and specifications shall be subject to the approval of the corporation and the local authority as the case may be previously to the works of the Company affecting the said roads streets lanes footpaths sewers or drains being commenced Provided always that if the corporation or the local authority as the case may be do not within fourteen days after service of such notice on them intimate to the Company their approval or disapproval of the said plans sections working drawings and specifications the Company may thereupon proceed to execute their said works In every case in which the Company interfere with any street road lane pavement or footpath the Company shall to the satisfaction of the corporation or of the local authority—

(1.) Restore the street road lane pavement or footpath so interfered with by the said works or by subsidence occasioned thereby to its original level;

(2.) Cause the street road lane pavement or footpath to be maintained till properly consolidated;

(3.) Make good the paving and metalling of the street road lane pavement or footpath and wherever necessary cause the street road lane pavement or footpath to be re-paved or re-metalled over their entire width;

(4.) Provide and maintain all requisite communications and accesses for foot passengers to and from the houses and other buildings in the streets roads lanes pavements or footpaths so interfered with;

(B.) Where any of the works to be done under or by virtue of this Act shall or may pass over under or by the side of or so as to interfere with any sewer drain watercourse defence or work under the jurisdiction or control of the corporation or of the local authority or shall or may in any way affect the sewerage or drainage of the district under their control the Company shall make good any damage which may be done by their operations to any of the sewers and shall clean out the same should they get silted up in consequence of any of the operations of the Company during or after the construction of the Company's works and shall provide by new altered or substi-

tuted works including outfall sewers in such manner as the corporation or the local authority may deem necessary (and for the construction of which they shall be bound to afford all reasonable facilities and communicate their powers so far as necessary) for the proper protection of and for preventing injury or impediment to the sewers and works herein-before referred to by or by reason of the said intended works or any part thereof and shall save harmless the corporation and the local authority against all and every the expense to be occasioned thereby and all such works may be done by or under the direction superintendence and control of the corporation or the local authority at the costs charges and expenses in all respects of the Company and all reasonable costs charges and expenses thereby occasioned shall be paid by the Company on demand and if any dispute shall arise as to the amount of such costs charges and expenses the same shall be settled as herein-after provided and when any new altered or substituted works as aforesaid or any works or defence connected therewith shall be completed by or at the costs charges and expenses of the Company under the provisions of this Act the same shall thereafter be as fully and completely under the direction jurisdiction and control of the corporation or the local authority as any sewers or works now or hereafter may be and nothing in this Act shall except as herein-before provided extend to prejudice diminish alter or take away any of the rights powers or authorities vested or to be vested in the corporation or the local authority but all such rights powers and authorities shall be as valid and effectual as if this Act had not been passed;

(c.) The Company shall pay to the corporation and the local authority the costs and expenses they may incur or be put to in superintending the works authorised by this Act or otherwise or with reference to any of the matters aforesaid;

(d.) Nothing in this Act contained shall prevent the corporation or the local authority at any future time from carrying out any public improvement or any alterations developments or extensions of the existing or contemplated works in connexion with any department administered by them respectively either above or below the level of the tunnel and wherever the same are or but for the construction of the tunnel might have been carried across the tunnel the Company shall pay to the corporation and the local authority any additional expense they may incur or be put to in the carrying out of the same by reason of the making or maintaining of the tunnel and works or by any of the operations of the Company nor shall anything in this Act entitle the Company to any compensation for any damage

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occasioned by such operations of the corporation or the local authority unless such damage shall have been occasioned by the default or neglect of the corporation or of the local authority;

(E.) The Company shall so far as practicable and consistent with the proper carrying out of their undertaking use coke only for any steam or other engine used by them in the construction of the tunnel or otherwise the Company shall be bound to use such engines so as not to be offensive or to cause a nuisance to the neighbourhood;

(F.) The provisions of sub-sections (F.) (G.) (H.) (I.) (J.) of section 47 of this Act shall apply to the local authority of the burgh of Govan and to all streets and roads within the said burgh and to the sewers therein;

(G.) The special provisions herein contained for the protection of the corporation and of the local authority shall not be deemed to supersede or dispense with the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 but these except in so far as they may be inconsistent with any of the special provisions herein contained shall be and remain in full force and effect;

(H.) Nothing contained in this Act shall prejudice or affect the rights of the commissioners of police of the burgh of Govan in regard to the sewers within the said burgh under the General Police and Improvement (Scotland) Act 1862 and other public Acts affecting the same;

(I.) If the corporation or the local authority and the Company shall differ upon or with reference to any plans elevations sections or other particulars which under the provisions hereinbefore contained are to be delivered by the Company to the corporation or the local authority or as to the mode of carrying out the same or as to any other matter or thing arising out of the said plans elevations sections or particulars every such difference shall on the application of the Company or of the corporation or the local authority be referred to the determination of an arbitrator to be mutually agreed upon by the corporation or the local authority and the Company before the construction of the tunnel and works hereby authorised are commenced and failing such agreement as may be appointed on the requisition of either of them by the Board of Trade and such arbitrator shall have power to determine the matter in difference and the costs of and incidental to the reference shall be paid by the Company In the event of the death incapacity or failure to act of the arbitrator so appointed and the corporation or the local authority and the Company failing

to agree as to another arbitrator the Board of Trade shall as often as occasion requires appoint another arbitrator in room and place of the arbitrator previously appointed as aforesaid.

Restriction on taking houses of labouring class.

**49.** The Company shall not under the powers of this Act without the consent of the Secretary for Scotland purchase or acquire in any district within the meaning of the Public Health (Scotland) Act 1867 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 purposes of this section the expression "labouring class" means and includes mechanics artisans 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 of such persons who may be residing with them.

Period for completion of tunnel.

**50.** If the tunnel is 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 tunnel or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Company to exhibit lights on works in River Clyde.

**51.** The Company shall at or near to any works in or on the River Clyde by this Act authorised and upon any temporary works which may be placed in the river by the Company during the making of the tunnel or works connected therewith exhibit and keep burning every night from sunset to sunrise such lights (if any) as the Clyde Trustees shall from time to time direct If the Company fail to comply in any respect with the provisions of this section they shall for each night in which they so fail be liable to a penalty not exceeding ten pounds.

Mechanical power for working lifts.

**52.** The Company may work the lifts to be employed by them in conveying passengers animals and things to and from the tunnel by hydraulic or steam or other mechanical power.

For protection of tunnel.

**53.** The tunnel 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.

Power to grant leases of superfluous lands.

**54.** And whereas the Company may in the construction of the tunnel be compelled to purchase and pull down wholly or partially various houses and buildings and the sites thereof may not be wholly used or may not be required for the purposes of the tunnel

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and it is expedient that the Company should be enabled to grant leases of such sites or so much thereof respectively as they may be so compelled to purchase but may not require as aforesaid Be it enacted that subject to the provisions of this Act and without prejudice to the provisions of the Lands Clauses Consolidation (Scotland) Act 1845 requiring within the prescribed period the sale of superfluous lands the Company may grant leases of such sites or so much thereof respectively as shall not be so required as aforesaid for such term of years at such rents and subject to such covenants conditions and stipulations as the Company shall deem expedient with reference to the special circumstances of each lease but no such lease shall be granted for a term longer than the period prescribed by the Lands Clauses Consolidation (Scotland) Act 1845 for the sale of superfluous lands and any such site or sites or any part or parts of any such site or sites comprised in any such lease shall (subject to such lease) be sold within the period prescribed and in default of sale shall vest as provided by the Lands Clauses Consolidation (Scotland) Act 1845 with reference to superfluous lands Provided always that whenever by vesting in various owners or otherwise the ownership of any such site or sites or any part or parts of any such site or sites so leased by the Company shall be severed the rent may be apportioned by agreement between such owners and if such apportionment be not so settled the same shall be settled by an arbitrator appointed by the Board of Trade and after such apportionment the respective owners shall in respect of the apportioned rent allotted or belonging to them have the benefit of all conditions or powers of re-entry for non-payment of the original rent in like manner as if such conditions or powers had been reserved to them as incident to their part of the property in respect of the apportioned rent allotted or belonging to them.

Superfluous lands may be feued and feu duties to be sold.

**55.** The Company may within ten years after the expiration of the time limited by this Act for the completion of the tunnel sell and dispose of any lands or other property or any part thereof which they may be compelled to purchase but which they may not require for the purposes of the tunnel in consideration of an annual feu duty or ground annual payable by the person or persons to whom such lands may be sold and within five years after the creation of any such feu duty or ground annual the Company shall absolutely sell and dispose of the same in such manner as they may deem most advantageous and shall apply the purchase money arising from such sale to the purposes of the undertaking to which capital is properly applicable Notwithstanding anything contained in the Lands Clauses Consolidation (Scotland) Act 1845 or other Acts the Company may retain such portions of the said lands or other property as they may

deem to be necessary for the widening of the tunnel or any part thereof or for stations and sidings connected therewith.

Tolls.

**56.** The Company may demand and take in respect of the use of the tunnel or any part thereof and of the lifts employed in descending and ascending thereto and therefrom any tolls not exceeding the following sums (that is to say) :—

In respect of passengers and animals—

For every person one halfpenny ;

For every horse mule or ass and person in charge thereof twopence ;

For every head of neat cattle one penny halfpenny ;

For every sheep or lamb one halfpenny ;

For every calf pig or goat one penny :

In respect of vehicles—

For every cart carriage or other vehicle with four wheels if drawn by four horses one shilling if empty and two shillings if loaded or if drawn by two horses sixpence if empty and one shilling if loaded or if drawn by one horse threepence if empty and sixpence if loaded ;

For every cart carriage or other vehicle with two wheels if drawn by two horses threepence if empty and sixpence if loaded or if drawn by one horse twopence if empty and fourpence if loaded ;

For every bicycle tricycle velocipede or other similar vehicle if in charge of one person one penny halfpenny and if in charge of more than one person one halfpenny additional for each person more than one ;

For every porter's hurley and person in charge thereof one penny halfpenny if empty and twopence if loaded ;

For every wheelbarrow and person in charge thereof one penny if empty and one penny halfpenny if loaded ;

For every perambulator and person in charge thereof one penny :

Provided always that the Company may demand and take double the several aforesaid tolls if the persons animals vehicles or things pass through the tunnel between the hours of twelve o'clock at midnight and five o'clock in the morning :

Provided further that 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 all animals and vehicles used by any such officer or person for carrying or conveying goods under seizure by him shall be exempt from all tolls and shall have the free use of the tunnel and lifts at all times :

Provided also that no toll shall be demanded or taken for any person horse or carriage or other vehicle employed in conveying

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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.

Passengers luggage.

**57.** Every person using the tunnel may take with him his personal luggage carried by hand without any charge being made in respect of such luggage.

Regulations as to payment of tolls.

**58.** The tolls by this Act authorised to be demanded and taken by the Company shall be paid to such persons and at such places on or near the tunnel and in such manner and under such regulations as the Company may by notice appoint.

List of tolls to be exhibited.

**59.** A list of the tolls by this Act authorised to be demanded and taken and which shall be charged by the Company from time to time shall be exhibited in a conspicuous place at each entrance to and inside the tunnel.

Power to make byelaws.

**60.** The Company may with the consent of the sheriff of the county of Lanark from time to time make byelaws for all or any of the purposes following (that is to say):—

For regulating and limiting the passage way or tunnel to be used by foot passengers;

For regulating and limiting the speed at which persons riding on horseback or driving and at which carts carriages and other vehicles shall proceed through the tunnel;

For regulating and limiting the line or route to be kept or taken by persons riding on horseback or driving and by animals and carts carriages and other vehicles passing to from in or through the tunnel;

For preventing the commission of any nuisance in or upon the tunnel lifts and approaches;

For preserving the tunnel lifts works and approaches and preventing injuries and damages to the same;

And generally for facilitating the communication by this Act provided across the River Clyde:

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.

Substance of such byelaws to be ex-

**61.** The substance of byelaws made according to the provisions of this Act shall be painted on boards or printed on paper and

pasted on boards and hung up at or affixed to all the entrances to the tunnel and so as to give public notice thereof to the parties interested therein or affected thereby and such boards shall from time to time be renewed as often as the byelaws thereon or any part thereof shall be obliterated or destroyed and no penalty imposed by any such byelaw shall be recoverable unless the same shall have been published and kept published in manner aforesaid.

Penalty prohibited on a board.

**62.** Such byelaws when so published and affixed shall be binding upon and be observed by all parties and shall be sufficient to justify all persons acting under the same and for proof of the publication of any such byelaws it shall be sufficient to prove that a printed paper or painted board containing a copy of such byelaws was hung up or affixed in the manner by this Act directed and in case of its being afterwards displaced or damaged then that such paper or board was replaced as soon as conveniently might be.

Byelaws to be binding on all parties.

**63.** All penalties damages charges tolls and costs imposed or payable under this Act or under any byelaws by this Act authorised may be recovered in a summary manner in any court of competent jurisdiction.

Recovery of penalties, &c.

**64.** 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 River Clyde 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 exerciseable by the Queen's Majesty Her heirs or successors.

Saving rights of the Crown in the foreshore.

**65.** Nothing in this Act shall exempt the Company from any indictment suit action or other proceeding in respect of any nuisance caused by them but no engine or engine-house or machinery erected or used for the purpose of constructing or working the tunnel shall be considered a nuisance unless the same shall be found to emit smoke or steam or to cause noise or vibration beyond what is in each case reasonably necessary for the purpose for which such engine or engine-house or machinery is used.

Company not exempt from action for nuisance.

**66.** Notwithstanding anything in this Act or in any Act or Acts incorporated therewith contained it shall be lawful for the Company out of any money by this Act authorised to be raised to pay interest at such rate not exceeding three pounds per centum per annum as

Power to Company to pay interest out of capital during construction.

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the directors of the Company may determine to any shareholder on the amount from time to time paid up on the shares held by him from the respective times of such payments until the expiration of the time limited by this Act for the completion of the works by this Act authorised or such less period as the directors may determine but subject always to the conditions herein-after stated (that is to say) :—

(A.) No such interest shall begin to accrue until the Company shall have obtained a certificate from the Board of Trade that two thirds at least of the share capital authorised by this Act in respect of which such interest may be paid has been actually issued and accepted and is held by shareholders who or whose executors administrators or assigns are legally liable for the same;

(B.) No such interest shall accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear;

(C.) The aggregate amount to be so paid for interest shall not exceed five thousand four hundred pounds and the amount so paid shall not be deemed share capital in respect of which the borrowing powers of the Company may be exercised but such borrowing powers shall be reduced to the extent of one third of the amount paid for interest as aforesaid;

(D.) Notice that the Company have power so to pay interest out of capital shall be given in every prospectus advertisement or other document of the Company inviting subscriptions for shares and in every certificate of shares;

(E.) The half-yearly accounts of the Company shall show the amount of capital on which and the rate at which interest has been paid in pursuance of this section :

Save as herein-before set forth no interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorised to raise to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation (Scotland) Act 1845.

Terms on which undertaking may be acquired by corporation of Glasgow

**67.** The Lord Provost magistrates and council of the city of Glasgow (herein-after in this section called "the corporation") and the police commissioners of the burgh of Govan (herein-after in this section called "the commissioners") or either of those bodies may within six months after the expiration of fourteen years from the

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and police commissioners of Govan.

date of the opening of the tunnel for public traffic and after the expiration of every subsequent period of fourteen years resolve to acquire the undertaking of the Company and may by notice in writing given to the Company within the said period of six months require the Company to sell and thereupon the Company shall sell to the corporation and the commissioners or to such of those bodies as may give the aforesaid notice the whole lands undertaking works property effects powers rights and privileges acquired and constructed by and authorised and conferred on the Company by this Act (all herein-after in this section called "the undertaking") upon the terms and conditions following (that is to say):—

(A.) The price to be paid to the Company shall be the value of the undertaking at the time of such purchase without regard to prospective value and failing agreement within six months from the date when the aforesaid notice shall be given to the Company such value shall be determined by an arbitrator to be appointed by the Board of Trade on the application of the corporation and the commissioners or either of those bodies or of the Company and the award of such arbitrator shall be final Provided that such value shall not be less than the actual amount at the time bonâ fide expended by the Company on and of all liabilities for which the Company are at the time responsible in connexion with the undertaking Provided further that in the event of the corporation and the commissioners jointly acquiring the undertaking the proportions to be paid by them respectively of such price or value shall failing agreement between them be determined by such arbitrator he having regard to all the circumstances of the case;

(B.) All the expenses that may be incurred by the Company in relation to any arbitration which may be entered into under this section shall be subject to the provisions as to costs of arbitration contained in the clauses with respect to the purchase and taking of lands otherwise than by agreement in the Lands Clauses Consolidation (Scotland) Act 1845 and the arbitrator shall determine as between the corporation and the commissioners the proportions of the said expenses as well as of the expenses that may be incurred by the corporation and the commissioners to be paid by them respectively in the event of those bodies jointly acquiring the undertaking Provided that for the purposes of this section the words "the promoters of the undertaking" in the clauses of the said Act shall be construed to mean the corporation and the commissioners or either of those bodies;

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(c.) On payment to the Company of the price or value of the undertaking as the same may be agreed on or be ascertained as aforesaid and of the expenses if any of the arbitration if entered into and of and incident to the sale (including the stamp duty herein-after mentioned) the undertaking of the Company and their whole lands works property effects rights powers authorities and liabilities in respect thereof shall thereupon be transferred to and vested in and be exercised and undertaken by the corporation and the commissioners or such of those bodies as may acquire the undertaking as aforesaid;

(d.) If the price or value aforesaid and the expenses aforesaid shall not be paid out of moneys authorised to be raised for the purpose by a special Act (which the Company shall not be entitled directly or indirectly to oppose) within six months from the expiration of the period of six months mentioned in sub-section (a.) of this section or the date of the award of the arbitrator as the case may be the powers by this section conferred on the corporation and the commissioners to purchase the undertaking shall cease and determine;

(e.) The corporation and the commissioners or such of those bodies as may acquire the undertaking as aforesaid shall within three months from the date of payment by them to the Company of the price or value aforesaid produce to the Commissioners of Inland Revenue a copy of this Act printed by Her Majesty's printers and duly stamped with the ad valorem stamp duty of the same amount as would have been payable if the transfer of the undertaking had been by a deed of conveyance and if they shall not within the said period of three months produce to the said Commissioners such copy of this Act duly stamped as aforesaid the ad valorem stamp duty shall be recoverable from them with full costs of suit and all costs and charges attending the same.

Prevention and trial of offences.

**68.**—(a.) The sheriff of the county of Lanark may from time to time upon the application of the Company or of the magistrates of the city of Glasgow or of any other police authority having jurisdiction direct the chief constable of the city of Glasgow to appoint such additional number of constables as such sheriff may think fit for the special purpose of keeping the peace and for the security of persons and property against crimes and unlawful acts within or upon the tunnel and approaches ways communications works and conveniences connected therewith and such constables so appointed shall be specially charged with such duties and shall have all the

powers privileges and duties of other constables appointed under the Glasgow Police Act 1866 and the sheriff shall direct the Company to make payment to the treasurer of the Lord Provost magistrates and town council of the said city acting as police authorities of the wages and allowances of such constables so appointed at such rate and at such time and in such manner as the sheriff shall appoint and the rate so paid shall not exceed the highest rate paid for the time to any other constable in the city and where the Company shall refuse or neglect within fourteen days next after the demand thereof to pay any such wages or allowances or any part thereof as shall by such sheriff have been directed to be paid it shall be lawful for such sheriff forthwith to cause the same to be levied together with the expense of levying the same by poinding and sale of the goods and effects of the Company.

(B.) The magistrates of Glasgow sitting in any of the police courts of the city the bailie of the River and Firth of Clyde and his depute and the police magistrate of the said city appointed and acting under the provisions of the Act 38 and 39 Victoria chapter 81 shall have the like powers and jurisdiction to try all offences including breaches of any byelaws to be made under the powers of this Act committed within or upon the tunnel and approaches ways communications works and conveniences connected therewith as they would have if the tunnel and approaches ways communications works and conveniences connected therewith were wholly situated within the existing area of the city and royal burgh of Glasgow and the provisions of the Glasgow Police Acts applicable to offences committed within the city of Glasgow shall be applicable to offences committed within or upon the tunnel and approaches ways communications works and conveniences connected therewith But without prejudice to the powers and jurisdiction of any other competent authority.

As to future bridge erected below Glasgow Bridge by certain bodies.

**69.** If the corporation of Glasgow or the trustees of the Clyde Navigation or any road authority under the Roads and Bridges (Scotland) Act 1878 shall hereafter jointly or severally obtain from Parliament power to erect a bridge across the River Clyde at any point below Glasgow Bridge the Company shall not be entitled to claim compensation in respect of abstraction of traffic from the tunnel or for any loss except such as may be occasioned by physical interference which the Company may sustain by the erection of such bridge.

Saving rights of Clyde Trustees.

**70.** Save as in this Act otherwise provided nothing in this Act contained shall take away lessen prejudice or alter any of the estates

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rights powers authorities privileges or jurisdictions of the Clyde Trustees.

Costs of Act.

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

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FOR

T. Digby Pigott, Esq., the Queen's Printer of Acts of Parliament.

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