CHAPTER lxiv.

An Act to incorporate a Company for making a Subway under the River Thames between Millwall and Greenwich. A.D. 1877.

[28th June 1877.]

WHEREAS the making and maintaining of the subway hereinafter mentioned under the River Thames, with convenient approaches thereto, would be attended with public and local advantage:

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

And whereas plans and sections showing the lines and levels of the proposed subway, approaches, and other works, and the lands, houses, and other property which may be taken for the purposes of this Act, together with books of reference to such plans containing the names of the owners or reputed owners, lessees or reputed lessees, and of the occupiers of such lands, houses, and other property, have been deposited for public inspection with the respective clerks of the peace for the counties of Middlesex and Kent, and such plans, sections, and books of reference are in this Act referred to as the deposited plans, sections, and books of reference respectively:

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

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

1. This Act may be cited as "The Greenwich and Millwall Subway Act, 1877." Short title.

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Certain provisions of Acts herein named incorporated.

2. "The Companies Clauses Consolidation Act, 1845," Parts I. and III. (relating respectively to cancellation and surrender of shares, and debenture stock) of "The Companies Clauses Act, 1863," "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869," and the provisions of "The Railways Clauses Consolidation Act, 1845," with respect to the temporary occupation of lands near the railway during the construction thereof, are (except where expressly varied by this Act) incorporated with and form part of this Act; provided that in construing the provisions of the last-mentioned Act for the purposes of this Act, the expressions the railway and the centre of the railway shall respectively mean the works and the boundaries of the works by this Act authorised, and the word lands shall not include houses or other buildings.

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 subway" and "the undertaking" mean respectively the subway and the undertaking by this Act authorised; and the expression "superior court" 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. Charles Magnay, Hugh David Sandeman, Charles Chambers, and all other persons and corporations who have already subscribed to or shall hereafter become proprietors in the undertaking, and their executors, administrators, successors, or assigns respectively, shall be and are hereby united into a company for the purpose of making and maintaining the subway and for other the purposes of this Act, and for those purposes shall be and are hereby incorporated by the name of "The Greenwich and Millwall Subway Company," and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act.

Power to make subway according to deposited plans.

5. Subject to the provisions of this Act, the Company may make and maintain, in the line and according to the levels shown on the deposited plans and sections, the subway herein-after described, with all proper shafts, abutments, landing and entrance stairs, retaining and other walls, approaches, 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 subway herein-before referred to and authorised by this Act is—

A subway commencing in the parish of All Saints, Poplar, in the county of Middlesex, at or near Johnson Street, Poplar, and terminating in the parish of Greenwich, in the county of Kent, at or near the junction of Church Street and Billingsgate Street, Greenwich.

Capital, and number and amount of shares.

6. The capital of the Company shall be seventy-four thousand pounds in seven thousand four hundred shares of ten pounds each.

Shares not to issue until one-fifth part paid up.

7. 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.

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

Receipt clause in case of persons not sui juris.

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

Power to borrow on mortgage.

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

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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.

Arrears may be enforced by appointment of a receiver.

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

Debenture stock.

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

Application of moneys.

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

First ordinary meeting.

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

Number of directors.

15. The number of directors shall be three.

Qualification of directors.

16. The qualification of a director shall be the possession in his own right of forty shares.

Quorum of directors.

17. The quorum of a meeting of directors shall be two.

First directors.

18. Charles Magnay, Hugh David Sandeman, and Charles Chambers 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 places of those not continued in office, the directors appointed by this Act being, if qualified, eligible for re-election, and at the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present personally or by proxy shall elect persons to supply the places of the directors then retiring from office, agreeably to the provisions of "The Companies Clauses Consolidation Act, 1845," and the

Election of directors.

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.

19. In addition to the lands herein-before authorised to be taken by the Company, it shall be lawful for the Company to purchase by agreement in connexion with the subway any quantity of land near or adjoining thereto not exceeding three acres for the extraordinary purposes specified in section 45 of "The Railway Clauses Consolidation Act, 1845," and for the purposes of this Act the word "railway" in that section shall be taken to mean and be read as referring to the subway.

Powers for compulsory purchases limited.

20. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

As to correction of errors in deposited plans and books of reference.

21. If there be any omission, mis-statement, or wrong description of any lands, or of the owners, lessees, or occupiers of any lands, shown on the deposited plans or specified in the deposited books of reference, the Company, after giving ten days notice to the owners, lessees, and occupiers of the lands in question, may apply to two justices acting for the counties of Middlesex or Kent (as the case may be) for the correction thereof, and if it appear to the justices that the omission, mis-statement, or wrong description arose from mistake they shall certify the same accordingly, and they shall in their certificate state the particulars of the omission, and in what respect any such matter is mis-stated or wrongly described, and such certificate shall be deposited with the clerk of the peace for the counties of Middlesex or Kent (as the case may be), and a duplicate thereof shall also be deposited with the clerk of the Poplar District Board of Works or with the clerk of the Greenwich District Board of Works (as the case may be), and such certificate and duplicate respectively shall be kept by such clerks of the peace and clerks of district boards respectively with the other documents to which the same relate, and thereupon the deposited plans and books of reference shall be deemed to be corrected according to such certificate, and it shall be lawful for the Company to take the lands and execute the works in accordance with such certificate.

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

22. Copies of the deposited plans and sections and of the deposited books of reference, or of any alteration or correction thereof or extract therefrom certified by the clerk of the peace for the county of Middlesex or Kent respectively (as the case may

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be), which certificate such clerk of the peace respectively shall give to all parties interested when required, shall be received in all courts of justice or elsewhere as evidence of the contents thereof.

Lateral deviations.

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

Vertical deviations.

24. Subject to the provisions of this Act, the Company in making the subway may deviate from the levels thereof as referred to the datum line shown on the deposited sections to any extent that the Company may think fit: Provided always, that the Company shall not in making such deviation interfere permanently with the existing bed of the River Thames.

Subway and works in the River Thames to be executed under the direction of the Conservators of the River Thames.

25. The top of the subway by this Act authorised shall for a length of four hundred and fifty feet under the middle of the river be not less than fifty-four feet below the level of Trinity high-water mark, and such subway and all or any temporary or permanent works connected therewith shall be executed according to a plan and upon a site within the limits of deviation to be approved by the Conservators of the River Thames and deposited at their office, and the works, if any, in the River Thames and adjoining thereto shall be executed and performed to the satisfaction of the engineer for the time being of the Conservators, and the traffic of the said River Thames shall not be interfered with more than may be absolutely necessary in the construction of the said subway and performance of the said works; and the Company shall, within three months after notice from the Conservators so to do, remove any materials for temporary works which may have been placed in the river by the Company, and on their failing to do so the Conservators shall remove the same, charging the Company with the expense of so doing, and the Company shall forthwith repay to the Conservators all expenses so incurred.

Company not to commence any work on shore of Thames until notice shall be given.

26. The Company shall not make or commence any work whatsoever on the shore or bed of the River Thames, or of any creek or inlet thereof, until the expiration of one calendar month after notice to the Conservators of the River Thames.

Lights to be exhibited during the construction of subway.

27. If during the making of the subway and the works connected therewith any temporary works or materials are placed on the river, the Company shall hang out and exhibit thereat or near thereto, and for ever after until the completion of the subway and removal of such temporary works or materials, every night from sunset to sunrise, lights to be kept burning by and at the expense of the Company, and proper and sufficient for the navigation and safe guidance of vessels, and the lights shall from time to time be altered by the Company in such manner, and be of such kind and number, and be so placed and used as the Conservators of the River Thames by writing under the hand of their secretary shall approve, and in case the Company fail so to exhibit and keep burning the lights they shall for every such offence forfeit ten pounds.

Company not to interfere with the bed of the river.

28. Nothing in this Act contained shall authorise or empower the Company to embank, encroach upon, or interfere with any part of the soil or bed of the River Thames, or the shore thereof, except according to the plan last herein-before mentioned.

Company not to take gravel, &c. from river without consent of Conservators.

29. The Company shall not take any gravel, soil, or other material from the bed of the river without the previous consent of the Conservators of the River Thames signified in writing under the hand of their secretary.

Bed of the river may be deepened.

30. The subway shall be so constructed that the bed of the river both over the subway and on either side thereof for a width of four hundred and fifty feet in the middle of the river, may at any time thereafter be deepened to the extent of forty feet below the level of Trinity high-water mark.

For protection of the London and Blackwall and Great Eastern Railway Companies.

31. And whereas part of the undertaking of the London and Blackwall Railway Company (who are in this section referred to as the Blackwall Company) consists of the Millwall Extension Railway, which is now under lease for a long term of years to the Great Eastern Railway Company: And whereas land, property, and works of the Blackwall Company are included within the limits of deviation shown on the deposited plans: Therefore, for the protection of the said railway companies, the following conditions and stipulations shall be observed by and be binding upon the Company in the exercise of the powers of this Act: The Company shall, for the purpose of constructing and maintaining the said subway and an entrance and toll-house thereto, have an easement under the piece or parcel of land belonging or reputed to belong to the Blackwall Company, and numbered 8 on the deposited plans, and shall not, without the consent in writing of the said railway companies, enter

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upon, take, or use any other part of the land, property, or works of the Blackwall Company, the consideration to be paid by the Company for the said easement to be such as may be agreed upon, or as in case of difference shall be settled in manner provided by the Lands Clauses Consolidation Act, 1845, for the settlement of disputed cases of compensation. All works constructed by the Company on or under the said piece or parcel of land numbered 8 on the deposited plans shall be constructed in such a way and of sufficient strength to admit of the railway and works of the railway companies being extended over the whole of the said land at any future time without any additional works being necessary on the part of the said railway companies by reason of the construction of the said subway on the said land, and the railway companies may construct any extension of their railway and works on the said land and over the said subway which they may from time to time require. All works of the Company directly affecting the land and works of the Blackwall Company shall be constructed according to such plans and sections as shall be submitted to the engineer of the Blackwall Company, and in each case approved by him in writing under his hand before any of the works are commenced, or in case of his refusal or neglect to approve the same within twenty-one days after the same shall have been so submitted, as shall be settled and determined in each case by an engineer to be appointed on the application of either company by the Board of Trade, and all such works shall be constructed in accordance with such plans under the superintendence and to the reasonable satisfaction of the engineer of the Blackwall Company. The Company shall in constructing the said works interfere as little as possible with the access to the North Greenwich Station, and in the event of such access being obstructed shall provide temporary access to the same to the reasonable satisfaction of the engineer of the Blackwall Company. The Company shall at all times maintain any works connected with or affecting the undertaking or any part of the undertaking of the Blackwall Company in substantial repair and good order and condition to the reasonable satisfaction in all respects of the engineer of that company, and if and whenever the Company fail so to do the Blackwall Company may make and do all such works as they may think requisite in that behalf, and the sum from time to time certified by their engineer to be the amount of such their expenditure shall be repaid to them by the Company, and in default may be recovered from them with full costs in any court of competent jurisdiction.

Company empowered to underpin or otherwise strengthen houses or buildings.

32. And whereas in order to avoid injury to the houses and buildings within one hundred feet of the subway, it may be necessary to underpin or otherwise strengthen the same, therefore the Company may, at their own costs and charges, underpin or otherwise strengthen any such house or building: Provided that at least ten days notice shall (unless in case of emergency) be given to the owner, lessee, and occupier of the house or building intended to be underpinned or otherwise strengthened (each such notice to be left on the premises), and that the Company shall be liable to compensate the owner, lessee, and occupier of every such house or building for any inconvenience, loss, or damage which may result to them by reason of the exercise of the powers granted by this enactment: Provided also, that if the owner, lessee, or occupier of any such house or building shall give within seven days after that notice counter-notice in writing that he disputes the necessity of such underpinning or strengthening, the question of the necessity shall be referred to a civil engineer to be agreed upon, or in case of difference to a civil engineer to be appointed at the instance of either party by the Board of Trade, and such referee shall forthwith upon the application of either party proceed to inspect such house or building and determine the matter referred to him, and in the event of his deciding that such underpinning or strengthening is necessary, he may in his discretion prescribe the mode in which the same shall be executed, and the Company may and shall proceed forthwith to underpin or strengthen the said house or building, and the cost of such referee shall be paid by the Company, and the cost of the reference (other than the cost of the referee) shall be in the discretion of the referee: Provided that nothing in this enactment contained, nor any dealing with the property in pursuance of this enactment, shall relieve the Company from the liability to compensation under the 68th section of the Lands Clauses Consolidation Act, 1845, or under any other Act: Provided also, that every case of compensation to be ascertained under this Act shall be ascertained according to the provisions contained in the Lands Clauses Consolidation Act, 1845.

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

33. With respect to any lands which the Company are by the provisions of this Act authorised to enter on, take, and use for purposes of the subway and works authorised by this Act, and which are in or under the roadway or footway of any street, road, or highway, the Company shall not be required wholly to take those lands or any part of the surface thereof, or any cellar, vault, or other construction therein or thereunder, held or connected with

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any house in any such street, road, or highway, but the Company may purchase, take, and use, and the owners of and other persons interested in those lands shall sell and grant to the Company, a perpetual and exclusive easement or right of using the substrata or lands under such cellars, vaults, and other constructions as aforesaid, and if need be the Company may purchase, take, and use, and the owners of and other persons interested in any cellar, vault, or other construction shall sell the same for the purpose of the said subway and works, and the purchase of any such easement, cellar, vault, or construction shall not in any case be deemed the purchase of a part of a house or other building or manufactory within section 92 of the Lands Clauses Consolidation Act, 1845.

Period for completion of works.

34. If the subway 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 subway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

For protection of sewers of Metropolitan Board of Works and district boards.

35. When any of the intended 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 Metropolitan Board of Works, or of any district board constituted under "The Metropolis Management Act, 1855," or any Act or Acts amending the same or extending the powers thereof, or with any sewers or works to be made or executed by the said Metropolitan Board or district board, or any or either of them, or shall or may in any way affect the sewerage or drainage of the district under their or either of their control, the Company shall not commence such works until they shall have given to the said Metropolitan Board or to the district board, as the case may be, twenty-one days previous notice in writing of their intention to commence the same by leaving such notice at the principal office of such board for the time being, with a plan and section showing the course and inclination thereof, and other necessary particulars relating thereto, and until such board shall have signified their approval of the same, unless such board do not signify their approval, disapproval, or other directions within twenty-one days after service of the said plan, section, and particulars as aforesaid, and the Company shall comply with and conform to all orders, directions, and regulations of the said Metropolitan Board and of the respective district boards in the execution of the said works, and shall provide by new, altered, or substituted works

in such manner as such respective boards shall reasonably require for the proper protection of and for preventing injury or impediment to the sewers and works herein-before referred to, or by reason of the said intended works or any part thereof, and shall save harmless the said Metropolitan Board and district board respectively against all and every the expense to be occasioned thereby, and all such works shall be done by or under the direction, superintendence, and control of the engineer or other officer or officers of the said Metropolitan Board or district board, as the case may be, at the costs, charges, and expenses in all respects of the Company, and all reasonable costs, charges, and expenses which the said Metropolitan Board or district board may be put to by reason of the works of the Company, whether in the execution of works, the preparation or examination of plans or designs, superintendence, or otherwise, shall be paid to such board or district board by the Company on demand, 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, or 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 said Metropolitan Board and district boards respectively, as the case may be, as any sewers or works now are or hereafter may be, and nothing in this Act shall extend to prejudice, diminish, alter, or take away any of the rights, powers, or authorities vested or to be vested in the said Metropolitan Board and district boards, or any or either of them, or of their successors, but all such rights, powers, and authorities shall be as valid and effectual as if this Act had not been passed.

Notice to be given of taking houses of labouring classes.

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

Power to take tolls.

37. The Company may from time to time demand and take for each person passing through the subway any sum not exceeding threepence, and for every parcel under fifty-six pounds in weight, not being personal luggage carried in the hand, any sum not exceeding threepence, and for every parcel weighing fifty-six

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pounds, and not exceeding one hundred and twenty pounds, fourpence, and for every parcel weighing more than one hundred and twenty pounds any sum which the Company think fit.

Power to provide toll-gates and toll-houses.

38. The Company may from time to time set up toll-gates at or upon the subway, 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.

Recovery of tolls.

39. The toll shall be paid before any person shall be entitled to pass or re-pass through any toll-gate, and if any person shall fail to pay any toll to the payment of which he is liable after demand made thereof by any collector appointed to receive the same, such collector may by himself, or taking such assistance as he think necessary, prevent the passage of the person so failing, and any person who shall endeavour forcibly to pass or re-pass through any toll-gate shall for every such offence be liable to a penalty not exceeding forty shillings.

Disputes as to tolls to be settled by justices.

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

Penalty on taking a greater toll than authorised by law.

41. Every person who shall demand or take a greater toll than that authorised to be taken under the provisions of this Act shall for every such offence be liable to a penalty not exceeding forty shillings.

For protection of subway.

42. The subway 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.

Penalty for damaging subway, &c.

43. If any person commits any of the following offences; (that is to say,)

Wilfully obstructs the passage of the subway;

Wilfully or carelessly breaks or damages any part of the subway or toll-houses or anything fixed thereto;

Places or does anything in the subway to the annoyance of any person travelling therein,

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

Saving rights of the Conservators of the River Thames.

44. Except as herein expressly provided, nothing contained in this Act shall extend to or be construed to extend to prejudice or derogate from the estates, rights, interests, privileges, liberties, or

franchises of the Conservators of the River Thames, or to prohibit, defeat, alter, or diminish any power, authority, or jurisdiction which at the time of passing this Act the said Conservators did or might lawfully claim, use, or exercise.

Expenses of Act.

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

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