CHAPTER clxxxix.

An Act for conferring further powers on the Barry and Cadoxton Gas and Water Company. [26th August 1889.] A.D. 1889.

WHEREAS by the Barry and Cadoxton Gas and Water Act 1886 (in this Act called "the Act of 1886") the Barry and Cadoxton Gas and Water Company (in this Act called "the Company") were incorporated for (amongst other things) the purpose of making and maintaining the gasworks and waterworks by that Act authorised and for supplying gas and water within the limits of that Act and for carrying on the business usually carried on by gas and water companies and generally for carrying the powers of that Act into execution and (sections 7 and 8) were authorised to raise a share capital of thirty-six thousand pounds divided into two portions of fourteen thousand four hundred pounds gas capital and twenty-one thousand six hundred pounds water capital and (section 12) to borrow in respect of the gas capital not exceeding three thousand six hundred pounds and in respect of the water capital not exceeding five thousand four hundred pounds:

And whereas the Company have proceeded to carry the powers of the Act of 1886 into execution:

And whereas it is expedient that the Company be empowered to make and maintain the additional works by this Act authorised and for those purposes and for the general purposes of their water and gas undertakings respectively to raise additional share and loan capital as by this Act provided:

And whereas plans and sections showing the lines and levels of the works authorised by this Act and also books 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 clerk of the peace for the county of Glamorgan and are herein-after respectively referred to as the deposited plans sections and books of reference:

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And whereas the objects 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 Barry and Cadoxton Gas and Water Act 1889.

Acts of Company to be read as one Act.

2. The Act of 1886 as amended by this Act and this Act shall be read and construed as one Act and may be cited together as the Barry and Cadoxton Gas and Water Acts 1886 and 1889.

Incorporation of general Acts.

3. The following Acts and parts of Acts are (except where expressly varied by this Act) incorporated with and form part of this Act (that is to say):—

The Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883:

The Waterworks Clauses Act 1847 which for the purposes of this Act shall be read as if the words "with the consent in writing "of the owner or reputed owner of any such house or of the "agent of such owner" were omitted from section 44 and the Waterworks Clauses Act 1863:

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

The clauses and provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters (that is to say):—

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

The payment of subscriptions and the means of enforcing the payment of calls;

The forfeiture of shares for non-payment of calls;

The remedies of creditors of the Company against the shareholders;

The borrowing of money by the Company on mortgage or bond;

The conversion of borrowed money into capital;

The consolidation of shares into stock;

The making of dividends;

The giving of notices;

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

Part I. (relating to cancellation and surrender of shares) and Part II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 :

Provided that the incorporated provisions of the Railways Clauses Consolidation Act 1845 shall apply only to the reservoir and wells shafts or borings by this Act authorised.

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 expressions "the waterworks" and "the works" respectively mean and include the waterworks and the works connected therewith by this Act authorised :

And for the purposes of this Act—

The expression "railway" in the provisions of the Railways Clauses Consolidation Act 1845 incorporated with this Act means the reservoir and wells shafts or borings by this Act authorised and the expression "centre of the railway" in those provisions means any part of such reservoir and wells shafts or borings and the prescribed limits shall be fifty yards from any part of such reservoir and wells shafts or borings :

And the expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or any Act wholly or partially incorporated herewith shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt and not a debt or demand created by statute.

Power to make works

5. Subject to the provisions of this Act the Company may make and maintain in the lines and according to the levels shown on the deposited plans and sections the works herein-after described and may do the things by this Act authorised and may enter upon take and use such of the lands delineated on the said plans and described in the deposited books of reference as may be required for those purposes The works herein-before referred to and by this Act authorised to be made and maintained and the things by this Act authorised to be done comprise the following works and things (that is to say) :—

(*a*) A well shaft or boring (No. 1) to be situate in the parish of Saint Andrew's Major near the south-eastern corner of that

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part of Biglis Moors numbered 673 on the $\frac{1}{2500}$ scale ordnance map of that parish and about 1 chain south of the southern boundary of the field numbered 672 on the aforesaid ordnance map.

(*b*) A service reservoir situate wholly in the parish of Merthyr Dovan in the southern portion of the field numbered 158 on the $\frac{1}{2500}$ scale ordnance map of that parish and 4 chains or thereabouts measured in a westerly direction from the existing Cadoxton reservoir or tank of the Company.

(*c*) A conduit aqueduct or line or lines of pipes (No. 1) situate wholly in the parish of Saint Andrew's Major to commence from and out of the well shaft or boring No. 1 before described and to terminate in and near the south-east corner of the field numbered 647 on the $\frac{1}{2500}$ scale ordnance map of that parish.

(*d*) A well shaft or boring (No. 2) to be situate in the parish of Saint Andrew's Major in that part of Biglis Moors numbered 673 on the $\frac{1}{2500}$ scale ordnance map of that parish and 19½ chains or thereabouts measured in a north-easterly direction from Biglis Farm House.

(*e*) A conduit aqueduct or line or lines of pipes (No. 2) situate wholly in the parish of Saint Andrew's Major to commence from and out of the well shaft or boring No. 2 by this Act authorised and to terminate at or near the termination of Conduit No. 1 by this Act authorised.

(*f*) A conduit aqueduct or line or lines of pipes (No. 3) to commence by a junction with Conduits Nos. 1 and 2 by this Act authorised at the termination thereof and to terminate in the service reservoir by this Act authorised which conduit aqueduct line or lines of pipes will be wholly situate in and will pass from in through or into the parishes of Saint Andrew's Major Cadoxton-juxta-Barry and Merthyr Dovan.

(*g*) In connexion with the before-mentioned works or any or either of them all necessary and proper embankments walls filtering beds dams cuts channels aqueducts catch-waters culverts tunnels drains sluices wells weirs drifts adits tanks engines buildings mains pipes machinery appliances roads approaches telegraphs and telephones and other works and conveniences.

(*h*) The taking collecting diverting impounding and using all or any of the underground springs streams and waters which can or may be taken or collected by means of the said works or as may be found in or under any lands acquired under the powers of this Act.

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Deviation.

6. In constructing the waterworks the Company may deviate laterally from the lines thereof shown on the deposited plans to any extent not exceeding the limits of lateral deviation shown on the said plans and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding three feet upwards and five feet downwards Provided that when any conduit or pipe is to be made on or under any road the limits of lateral deviation if not otherwise laid down shall be the boundaries of such road Provided also that the Company shall not in the exercise of the power of lateral deviation hereby given make any embankment or wall of any reservoir of a greater height than that shown on the deposited plans and sections with reference to the corresponding embankment or wall and three feet in addition.

Period for compulsory purchase of lands.

7. 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 after the passing of this Act.

Power to acquire additional lands by agreement for waterworks purposes.

8. In addition to the lands which the Company are by this Act authorised to purchase compulsorily they may for any of the purposes of this Act in connexion with the waterworks from time to time by agreement purchase in fee any additional quantity of land not exceeding in the whole ten acres or any springs wells or waterworks or any easement or right (not being an easement or right of water) in or over such additional lands which they may from time to time think requisite for any of the purposes of the water undertaking Provided that the Company shall not use any such lands so as to cause a nuisance and shall not on any such lands erect or authorise or permit the erection of any buildings other than buildings connected with or necessary for their water undertaking.

Restriction on taking houses of labouring class.

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

(2.) For the purposes of this section the expression "labouring class" includes mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings

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a week and the families of any such persons who may be residing with them.

Period for completion of works.

10. If the waterworks authorised by this Act and shown on the deposited plans are not completed within five years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for executing the same or in relation thereto shall cease except as to so much thereof as is then completed but nothing herein shall restrict the Company from extending enlarging altering or renewing any of their engines machinery mains or pipes from time to time as occasion requires.

Power to take easements &c. by agreement.

11. Persons empowered by the Lands Clauses Consolidation 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 right privilege or authority not being an easement of water required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights privileges and authorities as aforesaid respectively.

Reservation of water rights &c. on sale.

12. On the sale by the Company of any lands they may reserve to themselves all or any part of the water or water rights or other easements belonging thereto and may make the sale subject to such reservations accordingly and may also make any such sale subject to such other reservations special conditions restrictions and provisions with respect to use of water exercise of noxious trades or discharge or deposit of manure sewage or other impure matter as they think fit.

Works to form part of water undertaking of Company.

13. The works by this Act authorised shall for all purposes whatsoever form part of the water undertaking of the Company.

Power to raise additional capital.

14. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 from time to time raise any additional capital not exceeding in the whole for the purposes of this Act and for the general purposes of their water undertaking twelve thousand eight hundred pounds and for the general purposes of their gas undertaking nineteen thousand two hundred pounds by the creation and issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partially by one or more of those modes respectively but the Company shall not issue any share created under the authority of this Act of less

nominal value than ten pounds 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 shall have been paid in respect thereof.

Receipt in case of persons not sui juris.

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

Except as otherwise provided new shares or stock to be subject to same incidents as ordinary shares or stock.

16. Except as is by this Act otherwise provided the capital in new shares or stock created by the Company under this Act and the new shares or stock therein and the holders thereof respectively shall be subject and entitled to the same powers provisions liabilities rights privileges and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description and the new shares or stock were shares or stock in that capital The capital in new shares or stock so created shall form part of the capital of the Company.

Dividends on new shares or stock.

17. Every person who becomes entitled to new shares or stock shall in respect of the same be a holder of shares or stock in the Company and shall be entitled to a dividend with the other holders of shares or stock of the same class or description proportioned to the whole amount from time to time called and paid on such new shares or to the whole amount of such stock as the case may be.

Restriction as to votes in respect of preferential shares or stock.

18. Except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any new shares to which a preferential dividend shall be assigned.

Profits of the Company on the additional gas share capital limited.

19. The Company shall not in any one year make out of their profits any larger dividend on the additional gas share capital to be raised under the powers of this Act than seven pounds in respect of every one hundred pounds actually paid up of such capital as shall be issued as ordinary capital unless a larger dividend be at any time necessary to make up the deficiency of any previous dividend which shall have fallen short of the said sum of seven pounds per centum per annum or than six pounds in respect of every one hundred pounds actually paid up of such capital as may be issued as preference capital.

Dividend on different classes of stock or shares to

20. In case in any half year the net revenues of the Company applicable to dividend shall be insufficient to pay the full amount of the prescribed maximum rate of dividend on each class of ordinary

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stock or shares in the capital of the Company a proportionate reduction shall be made in the dividend of each class.

be paid proportionately.

New gas shares or stock to be offered by auction or tender.

21. Notwithstanding anything in this Act contained the Company shall when any shares or stock created under the powers of this Act for the purposes of their gas undertaking are to be issued and before offering the same to the holder of any other shares or stock in the Company and whether the ordinary shares or ordinary stock of the Company are or is at a premium or not offer the same for sale by public auction or by tender in such manner at such times and subject to such conditions of sale as the Company shall from time to time determine Provided that at any such sale no single lot shall comprise more than one hundred pounds nominal value of shares or stock and that the reserved price put upon such shares or stock shall not be less than the nominal amount thereof and notice of the amount of such reserved price shall be sent by the Company in a sealed letter to the Board of Trade not less than twenty-four hours before the day of auction or the last day for the reception of tenders as the case may be and such letter may be opened after such day of auction or last day for the reception of tenders and not sooner and provided that no priority of tender shall be allowed to any holder of shares or stock in the Company except that if any bidding or offer by tender of any holder or holders of shares or stock be the same in amount as any bid or offer made by any other person the bidding or offer of such holder or holders of shares or stock shall be accepted in preference.

Purchase money of capital sold by auction to be paid within three months.

22. It shall be one of the conditions of any sale of shares or stock under this Act that the whole nominal amount thereof together with any premium given by any purchaser at such sale shall be paid to the Company within three months after such sale.

Notice to be given as to sale of shares or stock.

23. The intention to sell any such shares or stock by auction or by tender shall be communicated in writing to the clerk to the local board for the district of Barry and Cadoxton and to the secretary of the committee of the London Stock Exchange at least twenty-eight days before the day of auction or the last day for the reception of tenders as the case may be and notice of such intention shall be duly advertised once in each of two consecutive weeks in one or more local newspapers circulating within the said district.

Shares or stock not sold by auction or

24. When any shares or stock created under the powers of this Act have been offered for sale by auction or tender and not sold the same shall be offered at the reserved price put upon the same

respectively for the purpose of sale by auction or tender to the holders of ordinary shares or ordinary stock of the Company in manner provided by the Companies Clauses Act 1863 Provided always that any shares or stock so offered and not accepted within the time prescribed by the said Act shall again be offered for sale by public auction or by tender in the manner and subject to and in accordance with the foregoing provisions of this Act with respect to the sale of shares and stock but at a lower reserved price than the price put upon the same at the preceding offer thereof for sale by auction or tender (not being less than the nominal value of the shares or stock so offered) and any shares or stock not then sold shall be again offered to the holders of ordinary shares or ordinary stock at the last-mentioned reserved price and so from time to time on failure of any sale or offer.

by tender to be offered to shareholders.

25. Any sum of money which shall arise by way of premium from the issue of any such shares or stock after deducting therefrom the expenses of and incident to such issue shall not be considered as profits of the Company but shall be expended in extending or improving the gasworks of the Company or in paying off money borrowed or owing on mortgage of the gas undertaking by the Company and shall not be considered as part of the capital of the Company entitled to dividend.

Application of premium arising on issue of shares or stock.

26. The Company may in respect of the additional water capital of twelve thousand eight hundred pounds which they are by this Act authorised to raise from time to time borrow on mortgage of and for the purposes of the water undertaking any sum not exceeding in the whole three thousand two hundred pounds and they may in respect of the additional gas capital of nineteen thousand two hundred pounds which they are by this Act authorised to raise from time to time borrow on mortgage of and for the purposes of the gas undertaking any sum not exceeding in the whole four thousand eight hundred pounds but no part of either of such sums shall be borrowed until shares for so much of the said additional water capital or gas capital as the case may be in respect of which the borrowing power is to be exercised as is to be raised by means of shares are issued and accepted and one half of such capital 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 shares for the whole of such additional water capital or gas capital as the case may be have been issued and accepted and that one half of such capital has been paid up and that not less than one fifth part of the

Power to borrow.

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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 until stock for one half of the additional water capital or gas capital as the case may be as is to be raised by means of stock is fully paid up and the Company have proved to such justice as aforesaid before he so certifies that such shares or stock as the case may be were issued and accepted bonâ fide and are held by the persons or corporations to whom the same were issued or their executors administrators successors or assigns and also so far as the said capital is raised by shares that such persons or corporations or their executors administrators successors or assigns are legally liable for the same and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

As to conversion of borrowed money into capital.

27. The Company shall not have power to raise the money by this Act authorised to be borrowed on mortgage or by the issue of debenture stock or any part thereof by the creation of shares or stock instead of borrowing or to convert into share capital any money borrowed under the provisions of this Act unless in either case all dividends upon the shares or stock whether ordinary or preferential are limited to a rate not exceeding five pounds per centum per annum.

Priority of principal moneys secured by existing mortgages.

28. The principal moneys secured by all mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act and subsisting at the passing hereof shall during the continuance of such mortgages have priority over the principal moneys secured by any mortgages granted by virtue of this Act.

Power to create debenture stock.

29. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 and of section 15 of the Act of 1886 Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

Moneys borrowed on mortgage or debenture stock to have priority.

30. All moneys raised or to be raised by the Company on mortgage or debenture stock under the provisions of this Act shall have priority against the Company and the property from time to time of the Company over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act Provided always that this priority shall not affect any claim against the Company or their property in respect of any rent-

charge granted or to be granted by them in pursuance of the Lands Clauses Consolidation Act 1845 or the Lands Clauses Consolidation Acts Amendment Act 1860 or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company in pursuance of any Act relating to the Company which is entitled to rank in priority to or pari passu with the interest on their mortgages or debenture stock nor shall anything in this section contained affect any claim for land taken used or occupied by the Company for the purposes of their undertaking or works or injuriously affected by the construction thereof or by the exercise of any powers conferred on the Company. A.D. 1889.

Application of moneys.

31. All moneys raised under this Act whether by shares stock debenture stock or borrowing shall be applied only to the water or gas purposes of this Act and the Act of 1886 as the case may be to which capital is properly applicable and the Company may apply to the purposes of the works by this Act authorised any of the water capital authorised by the Act of 1886 and which may not be required for the purposes of that Act.

Costs of Act.

32. All costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act and otherwise in relation thereto shall be paid by the Company.

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